

L A W S

IN RELATION TO

COMMISSIONERS AND COLLECTORS

OF THE

PUBLIC REVENUE, ETC.

NOW IN FORCE.

PUBLISHED BY THE AUDITOR OF PUBLIC ACCOUNTS.

Richmond, Va.

PRINTED AT THE ENQUIRER BOOK AND JOB OFFICE.

1860.



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ALL OF CALIFORNIA
ALL OF ARIZONA

ALBINO LIAO TO VINH
23.11.1964 20.11.1964



COUNTY AND CORPORATION OFFICERS.

COUNTY AND CORPORATION OFFICERS---1860.

Counties, &c.	Commissioners of the Revenue.	Clerks of County Courts.	Clerks of Circuit Courts.	Att'ys for Commonwealth.
Alleghany,	G. F. Dudley,	Lewis P. Holloway,	Lewis P. Holloway,	William Skeen.
Amelia,	Samuel R. Seay,	E. H. Coleman,	E. H. Coleman,	Samuel S. Weisiger.
Albemarle,	Ira Harris and James F. Fry,	Ira Garrett,	Ira Garrett,	R. T. W. Duke.
Amherst,	T. A. Brown,	Samuel M. Garland,	R. A. Pendleton,	James P. Coleman.
Alexandria,	George Duffey,	Benj. H. Berry,	R. A. Sinclair,	C. E. Stuart.
Accomack,	E. B. Phillips and S. Drummond,	H. F. Bock,	T. J. Rayfield,	B. T. Gunter.
Appomattox,	Anthony A. North,	John D. Imboden,	H. F. Bock,	Lewis D. Isbell.
Augusta,	J. G. Stover and T. M. Donohoe,	J. T. Hartman,	A. F. Kinney, pro tem.	Wm. H. Harman.
Barbour,	P. Digman and Joseph Marteney,	Chas. R. McDannald,	L. D. Morrall,	D. M. Anvil.
Bath,	Wm. D. McElvee and R. R. Wilson,	A. A. Arthur,	Chas. R. McDannald,	Wm. H. Terrill.
Braxton,	John Ware and A. R. Given,	E. J. Alburis,	William H. Byrne,	P. B. Adams.
Bedford,	M. H. Gray and John G. Kasey,	Joseph R. Naylor,	Rowland D. Buford,	John F. Sale.
Berkeley,	P. J. Mussetter,	J. E. Stollings,	Joseph Burns,	George H. Murphy.
Boone,	Nathan Reeves,	Ferdinand Voltz,	Robert Nicholls,	N. W. White.
Botetourt,	Geo. W. Standly,	James H. Gillespie,	J. E. Stollings,	Isaac S. Samuels.
Buchanan,	C. L. Alderson and Jno. B. Allen,	Ro. K. Irving,	George W. Wilson,	Wm. H. Anthony.
Buckingham,	Jacob Deal,	E. R. Turnbull,	Jas. H. Gillespie,	Benj. W. Williams.
Brunswick,	W. B. Cobbs and James Dysart,	H. H. Wood,	Ro. K. Irving,	John Hill.
Cabell,	J. W. Rawlings and C. M. Short,	Jacob Salisbury,	E. R. Turnbull,	John E. Shell.
Clay,	G. W. Williams,	C. G. Hill,	H. H. Wood,	Anthony Shelto, J.
Clay,	Thos. McQuinn,	Geo. W. Silcott,	C. G. Hill,	J. H. Robinson.
Craig,	J. W. McCarney,	Edm'd Waddill,	John D. Alexander,	James W. Holt.
Calhoun,	William Robinson,	-	Edm'd Waddill,	W. L. Stevenson.
Campbell,	D. Hoffman and C. A. Holcombe,	-	-	E. D. Christian.
Charles City,	John L. Walker,	-	-	Isaac H. Christian.

Clarke,	James W. Johnston,	D. H. McGuire,	D. H. McGuire,	P. McCormick.
Caroline,	T. P. Richardson and Thomas Pugh,	Winslow Robinson,	Winslow Robinson,	Wood Bouldin.
Carroll,	John Shepherd and William J. Murray,	Geo. K. Taylor,	Geo. K. Taylor,	Randolph Peyton.
Chesterfield,	William P. Kirkbride and And. Jennings,	F. L. Hall,	William Lindsey,	James J. Hill.
Chester,	W. G. Flournoy and R. D. Flournoy,	Silas Chestham,	W. W. T. Cogbill,	A. E. Cogbill.
Cumberland,	Albert Tutt and Thos. W. Jones,	F. Mauzy,	Thomas O. Flint,	John C. Green.
Doddridge,	Samuel Booker,	B. B. Woodson,	B. B. Woodson,	George H. Mathews.
Essex,	Thos. A. Farley and B. J. Hill,	C. A. Hargrave,	C. A. Hargrave,	C. F. Goodwyn.
Elizabeth City,	Thos. D. Leesou,	E. A. Jeffrey,	T. K. Knight,	C. J. Stuart.
Fairfax,	N. J. B. Whitlock,	Jas R. Micon,	James R. Micon,	Thos. Caxton.
Fauquier,	William S. Slater,	S. S. Howard,	S. S. Howard,	J. Barron Hope.
Fayette.	John B. Hunter,	Alfred Moss,	F. D. Richardson,	W. H. Dulany.
Franklin,	William E. Gaskins and N. T. Ashby,	Wm. H. Jennings,	John S. Byrne,	W. H. Payne.
	P. Morton,	J. B. Jones,	John B. Jones,	Ro. F. Dennis.
	R. C. Bennett, H. Jameson and H. B. Johnson,	Ro. A. Scott,	Moses G. Carper,	Wm T. Taliaferro.
Frederick,	A. A. Robinson and Lewis W. Hale,	J. C. Riley,	W. G. Singleton,	F. W. M. Holliday.
Floyd,	J. B. Hylton,	W. B. Shelor,	W. B. Shelor,	P. S. Banks.
Flavanna,	O. B. Thomas,	Abr. Shepherd, jr.	Abr. Shepherd, jr.	Rich'd I. Cooke.
Grayson,	E. L. Vaughan and J. G. Carson,	J. W. Ballard,	G. H. Mathews,	Geo. W. Cornutt.
Greenbrier,	C. S. Larew and J. H. Arbuckle,	Joel McPherson,	C. A. Stuart,	John W. McPherson.
Greene,	M. Mauzy.	Ro. Pritchett,	Ro. Pritchett,	G. W. M. Sims.
Greensville,	S. H. Robinson,	John W. Potts,	John W. Potts,	John R. Chambliss.
Giles,	B. W. Hines and T. C. Young,	E. Johnston,	James W. English,	James D. Johnston.
Gilmer,	A. Bush,	C. B. Cournd,	Levi Johnson,	Robert Linn.
Gloucester,	Thomas C. Cooke,	John R. Cary,	John R. Cary,	John T. Seawell.
Goodland,	William W. Anderson,	N. W. Miller,	N. W. Miller,	Walter D. Leake.
Halifax,	A. Lacy and John Wilson,	J. S. Holt,	James Medley, jr.	Thomas J. Green.
Hampshire,	James Caudy and N. C. Smoot,	W. B. White,	John B. White,	A. W. McDonald.
Hancock,	Spencer A. Griffin,	Dan'l Donehon,	Dan'l Donehon,	Thayer Melvin.
Hanover,	Jos. T. Priddy and E. C. Taylor,	Wm. O. Winston,	James D. Christian,	Chas. W. Dabney.
Hardy,	James Vance and W. B. Fisher,	Ro. J. Tilden,	Charles Lobb,	J. W. F. Allen.
Harrison,	F. M. Brooks and Thos. Hickman,	Thos. L. Moore,	C. W. Smith,	Benj. Wilson.
Henrico,	Wm. P. Lawton and John A. Eacho,	William Folks,	Johnson Sands,	John B. Young.
Henry,	Theodrick Morris and A. B. Russ,	Jeremiah Griggs,	William D. Perkins,	John T. Wootten.
HIGHLAND,	J. W. Chew,	A. Stephenson,	N. P. Young,	John W. Myers.
Isle of Wight,	B. J. Gray,	Benj. Wright.	W. B. McMahon.	Ro. H. Whitfield.
Jackson,	A. McCoy.			F. P. Turner.

Counties, &c.	Commissioners of the Revenue.	Clerks of County Courts.	Clerks of Circuit Courts.	Attys for Commonwealth.
James City,	Henley L. Taylor,	W. H. E. Morecock,	John A. Henley,	C. A. Branch.
Jefferson,	Sammuel Stone,	Thos. A. Moore,	Ro. T. Brown,	C. B. Harding.
Kanawha,	R. M. Malcolm and J. W. Field,	A. W. Quarrier,	A. W. Quarrier,	Andrew Parks.
King George,	Ro. Coakley,	Wm. S. Brown,	Wm. S. Brown,	Geo. W. Lewis.
King & Queen,	Joseph Brownley,	Ro. Pollard, jr.	Ro. Pollard, jr.	J. M. Jeffries.
King William,	Saranel Robinson,	James O. Pollard,	James O. Pollard,	Thos. O. Dabney.
Lancaster,	Bidkar George,	Warner Fubank,	Warner Eubank,	Sam'l Gresham.
Lee,	E. B. Bales and Elisha Cox,	H. J. Morgan,	R. M. Hamblin,	John D. Sharp.
Lewis,	Geo. J. Marsh and E. Flesher,	John Morrow,	G. J. Butler,	Geo. J. Arnold.
Logan,	Lloyd Ellis and Richard Chambers,	Wm. Stratton,	Wm. Stratton,	J. S. Samuels.
Loudoun,	T. M. Wrenn, G. K. Fox and J. Taveunier,	Geo. K. Fox, jr.	James Sinclair,	C. B. Tibbs.
Louisia,	John R. Quarles and William Crawford,	D. M. Hunter,	D. M. Hunter,	James L. Gordon.
Lunenburg,	Joseph D. Barnes,	W. W. Webb,	W. W. Webb,	Thomas C. Elder.
Madison,	William E. Banks,	F. H. Hill,	F. H. Hill,	A. R. Blakey.
Marion,	John T. Prickett and And. Ice,	B. F. Hamilton,	Thomas G. Watson,	A. F. Haymond.
Marshall,	Eli Talbert and Joseph Turner,	E. H. Caldwell,	James Whittingham,	James M. Hoge.
Mason,	W. E. Wetzel and B. H. McCallister,	J. H. Holloway,	C. B. Waggener,	James H. Couch.
Mathews,	T. M. Hunley,	S. G. Miller,	S. G. Miller,	John W. Jarvis.
Mecklenburg,	E. T. Goode and Edwin Benford,	R. F. Clack,	R. F. Clack,	Thomas O. Goode.
Mercer,	L. D. Harvey,	C. W. Calfee,	Wm. A. Mahood,	A. Mahood.
Middlesex,	Holland Walker,	P. T. Woodward,	P. T. Woodward,	R. L. Montague.
McDowell,	A. D. Beavers,	Malcolm McNeil,	Malcolm McNeil,	Arch'd Peery.
Monongalia,	M. R. Chalfant and T. Strosnider,	M. M. Dent,	Lewis S. Layton,	P. H. Keck.
Monroe,	Jacob Osburn and A. L. Harvey,	G. W. Hutchinson,	G. W. Hutchinson,	John Echols.
Montgomery,	W. H. Ragan and John Haymaker,	James M. Wade,	James M. Wade,	John J. Wade.
Morgan,	Lewis Allen,	C. T. O'Ferrall,	L. S. Allen,	R. C. Gustin.
Nansemond,	S. Riddick and W. T. Holland,	P. B. Prentiss,	P. B. Prentiss,	R. H. Riddick, jr.
Nelson,	Peter J. Hill,	S. H. Lovinger,	Orville Loving,	Robert Whitehead.
New Kent,	Beverly P. Crump,	John D. Christian,	John D. Christian,	R. T. Lacy.
Nicholas,	William Bell,	Ro. Hamilton,	Ro. Hamilton,	Ro. Dunlap.
Norfolk county,	H. Foreman and J. W. Simmons,	Leroy G. Edwards,	Leroy G. Edwards,	D. J. Godwin.
Northampton,	Luther H. Read,	L. Harnanson,	L. Harnanson,	W. T. Fitchett.
Northumberland,	E. J. Tunc,	M. B. Cralle,	A. J. Brent,	T. E. Betts.
Nottoway,	Francis L. Moseley,	Rich'd Epes,	Rich'd Epes,	L. E. Bouldin.

Orange,	Richard Richards,	Philip S. Fry,	Philip S. Fry,	L. B. Williams.
Ohio,	T. M. Pemberton,	John McCollock,	Alonzo Loring,	Moses C. Goode.
Page,	Chas. B. Modest,	J. W. Watson,	G. T. Jones,	P. B. Bors.
Patrick,	T. F. Bennett and	Henry Tangle,	A. Staples,	John Staples.
Pleasants,	John Watson,	H. L. Pickens,	H. L. Pickens,	J. B. Jackson.
Pendleton,	Laban Smith,	John M. Jones,	John M. Jones,	H. H. Masters.
Preston,	Will Sigler and S.	Smith Crane,	James H. Carroll,	Gustavus Cresap.
Pittsylvania,	A. Fuller, C. W. Yeatts and	L. Scruggs,	Tarpley White,	W. M. Tredway.
	well,	Wm. Curry,	Wm. Curry,	Ro. F. Dennis.
Pochontas,	James E. Moore,	R. F. Graves,	R. F. Graves,	W. J. Dance.
Powhatan,	E. W. Bass,	B. J. Worsham,	B. J. Worsham,	W. C. Flournoy.
Prince Edward,	Watkins Dupuy,	John D. Mathews,	John D. Mathews,	P. B. Batte.
Prince George,	Arch'd Glover,	J. J. Burroughs,	J. J. Burroughs,	John Peters.
Princess Anne,	Wm. F. Hunter,	P. D. Lipscomb,	Milton Fitzhugh,	Eppa Hunton.
Prince William,	R. F. Brawner and J. M. Payne,	L. A. Currin,	L. A. Currin,	B. F. Wysor.
Pulaski,	Matt. Wilson,	R. T. Harvey,	R. T. Harvey,	James W. Hoge.
Putnam,	Nelson Handley,	Daniel Shumate,	Dan'l Shumate,	H. L. Gillespie.
Raleigh,	James F. Webb,	S. Bosworth,	B. L. Brown,	David Goff.
Randolph,	John B. Morrison,	R. M. Heterick,	R. M. Heterick,	J. Y. Menefee.
Rappahannock,	Mark Reid, jr.	F. W. Pendleton,	F. W. Pendleton,	Thos. Jones, jr.
Richmond,	J. M. Stiff,	Wm. M. Patton,	Amos Culp,	Cyrus Hall.
Ritchie,	D. V. Cox,	J. M. McWhorter,	Benj. S. Young,	R. S. Brown.
Roane,	C. Hiveley,	F. Johnston,	F. Johnston,	Henry E. Blair.
Roanoke,	E. B. McClanahan,	Charles Chapin,	Joseph G. Steele,	David E. Moore.
Rockbridge,	John A. Shaw and R. S. Campbell,	L. W. Gambill,	A. St. C. Sprinkle,	John T. Harris.
Rockingham,	W. H. Hamrick, H. A. Crisman and R. M. Mooney,	R. H. Lynch,	Granville Gilmer,	W. G. Dickerson.
	Asa Cross and Branson Dye,	H. R. Conway,	H. R. Conway,	John C. Mounce.
Russell,	T. D. Mounce,	S. C. Williams,	S. C. Williams,	Mark Bird.
Stafford,	Samuel Rinker and Joseph Watson,	J. L. Shumaker,	S. P. McConnell,	John W. Stallard.
Shenandoah,	E. Hickman and S. Kilgore,	Ro. C. Dabney,	John J. Chew,	T. B. Barlow.
Scott,	W. M. B. Goodwin and M. S. Chancellor,	L. R. Edwards,	L. R. Edwards,	John J. Kindred.
Spotsylvania,	W. E. Gay and J. M. Gurley,	W. C. Sexton,	E. A. Scott,	A. G. Pendleton, jr.
Stafford,	Isaac C. Wolf and James Wilson,	Wm. P. Underwood,	Wm. P. Underwood,	Jos. A. Graves.
Surry,	John L. Davis,	John J. Prince,	John T. J. Mason,	John R. Chambliss.
Sussex,	T. S. Simmons and T. J. Drumwright,	A. Armstrong,	A. Armstrong,	G. W. Hansbrough.
Taylor,	H. T. Sinclair,	James W. Thompson,	P. R. Spracher,	Arch'd Peery.
Tazewell,	A. Mahood and Berdine Deskins,			

COUNTY AND CORPORATION OFFICERS.

Counties, &c.	Commissioners of the Revenue.	Clerks of County Courts.	Clerks of Circuit Courts.	Att'ys for Commonwealth.
Tucker, Tyler.	Daniel C. Adams, E. W. Riggs,	A. Bonniwell, David Hickman, jr.	A. Bonniwell, David Hickman, jr.	Rufus Maxwell.
Upshur,	S. Bennett,	Mifflin Lorentz,	-	John W. McCoy.
Warren,	W. G. Settle,	Robert Turner,	-	John S. Fisher.
Warwick,	W. C. Marrow,	William B. Jones,	-	John R. Jackson.
Washington,	J. L. G. Edmondson and J. L. F. Campbell.	John G. Keger,	-	Sidney Smith.
Wayne,	W. H. Copley and Harrison Smith,	Washington Adkins,	-	John H. Ernest.
Webster.*	-	-	-	John Laidley.
Westmoreland,	Thomas Parker,	J. Warren Hunt,	-	John Crichter.
Wetzel,	Moses Roberts,	Friend Cox,	-	L. S. Hall.
Wirt,	Isaac L. Enoch,	Daniel Wilkinson,	-	R. S. Brown.
Wise,	Ira Gilliam,	Morgan S. Lipps,	-	Wm. B. Ashton.
Wood,	Samuel Emrick,	Will. Hatcher,	-	James M. Jackson.
Wyoming,	F. Sizemore,	James Cook,	-	H. L. Gillespie.
Wythe,	H. H. Repass and Joseph Hurt,	H. S. Mathews,	-	Ro. C. Kent.
York,	W. S. Mallicottie,	Bolivar Shield,	-	Sidney Smith.
Danville,	Wm. B. Watson,	T. S. Davidson,	-	Wm. M. Tredway.
Fredericksburg,	Ro. W. Hart,	J. J. Chew,	-	T. B. Barlow.
Lynchburg,	E. N. Eubank,	J. C. Didlake,	-	James Garland.
Norfolk city,	Geo. W. Steed,	John Williams,	-	George Blair, jr.
Petersburg,	John R. Eckles,	E. M. Mann,	-	R. G. Pegram.
Richmond city,	C. C. Johnson, G. W. H. Tyler and J. M. Francisco,	Ro. Howard,	-	R. T. Daniel.
Staunton,	Ro. W. Stevenson,	James F. Patterson.	-	-
Wheeling,	E. Day.	-	-	-
Williamsburg,	Wm. H. Pierce,	W. H. Yerby,	-	C. A. Branch.
Winchester,	George Brent.	-	-	-
Portsmouth,	J. Hobday.	A. Emmerson,	-	D. J. Godwin.

* This county has not yet been organized.

REVENUE LAWS,

NOW IN FORCE.

ACTS 1857-8, CHAP. 20.

An ACT providing for General Elections, for determining Contested Elections, for the Election of County Officers, and for their qualification and removal from office.

Passed March 30, 1858.

Commissioners of the revenue; how elected.

63. The number of commissioners of the revenue for each county or corporation shall be that prescribed by law; and there shall be elected as aforesaid, for each revenue district laid off as prescribed by law, one commissioner, who shall, during his term of office, reside in the district for which he was elected, and his removal therefrom shall vacate his office: provided, that the voters residing within any corporation who are hereby authorized to elect a commissioner of the revenue for such corporation, shall not vote for the commissioners of the revenue for the county within the limits of which such corporation may lie.

Commissioners of revenue.

To be resident of his district.

When officers' terms of office commence.

76. The term of the respective officers shall commence as follows: Sheriffs, on the first day of January,

When term of office to commence.

Terms of office.

commissioners of the revenue, on the first day of February, justices of the peace, on the first day of August, and the other officers, on the first day of July next succeeding such election; and the clerks of the circuit and county courts and the surveyor shall continue in office for the term of six years; attorneys for the commonwealth, justices of the peace and overseers of the poor, for the term of four years; sheriffs, commissioners of the revenue and constables, for two years each from the day when his term of office respectively commenced, unless sooner removed.

Oaths and bonds of officers.

Oaths and bonds of officers.

77. Every such officer, other than a justice of the peace, shall, either in the proper court, or before a judge of a circuit court for the county, in term, take such oaths and give such bonds within sixty days after his election, except a sheriff or commissioner of the revenue, who shall be allowed one hundred and twenty days in which to qualify and give the bonds of office; and if any officer shall fail to do so within the time prescribed, his office shall be deemed vacant; but his qualification, unless he be elected to fill a vacancy, shall not be deemed to take effect before the day appointed in the preceding section for his term of office to commence.

Of elections to fill vacancies.

Term of office to fill a vacancy.

80. Elections to supply vacancies shall be for the unexpired term of such office, except in such cases as are otherwise provided for in the constitution.

ACTS 1859-60, CHAP. 1.

An ACT for the Assessment of Taxes on Persons and Property.

Passed March 30, 1860.

Be it enacted by the general assembly, that so much of chapter 35 of the Code of Virginia, not heretofore repealed, and the act passed May 24, 1852, entitled an act to amend the provisions of the act passed April 24, 1852, entitled an act concerning commissioners of the revenue, and all acts amendatory thereof, be amended and re-enacted so as to read as follows :

Number and jurisdiction of commissioners.

*1. There shall be three commissioners of the revenue for each of the counties of Franklin, Loudoun, Pittsylvania and Rockingham ; two for each of the counties of Accomack, Albemarle, Augusta, Bath, Barbour, Bedford, Botetourt, Brunswick, Buckingham, Campbell, Caroline, Carroll, Charlotte, Chesterfield, Culpeper, Dinwiddie, Frederick, Fauquier, Giles, Grayson, Greenbrier, Halifax, Hampshire, Hanover, Hardy, Harrison, Henrico, Henry, Kanawha, Louisa, Lee, Lewis, Mar-

Number of commissioners in counties named.

* One of the commissioners heretofore allowed to Norfolk county has been transferred to the city of Portsmouth, so that the county has but two and Portsmouth one, corresponding with the former number.

One commissioner is dropped from Braxton, in consequence of one being given to Webster, a new county taken from Braxton, &c.

One commissioner is dropped from Tazewell, in consequence of new counties formed from it ; and one dropped from each of the counties of Logan and Wise, because two were considered unnecessary. To Randolph one has been added.

Number of commissioners in counties not named.
Number of commissioners in corporations.

shall, Marion, Mason, Mecklenburg, Montgomery, Monongalia, Monroe, Nansemond, Norfolk, Ohio, Preston, Prince William, Patrick, Randolph, Rockbridge, Russell, Shenandoah, Southampton, Spotsylvania, Smyth, Scott, Sussex, Tazewell, Washington, Wayne and Wythe; one for every other county now existing, or which may be hereafter created; and three for the city of Richmond, and one for each of the corporations of Danville, Fredericksburg, Lynchburg, Norfolk, Petersburg, Portsmouth, Staunton, Winchester and Williamsburg; which said commissioners shall be elected, give bond and qualify as prescribed by law.

Counties divided into districts.

How laid off.

2. In those counties in which there may be more than one commissioner, and in the city of Richmond, each shall be for a certain district, the bounds whereof shall be laid off and described, by an order of the county court and of the corporation court of the city of Richmond, and may at any time be changed by such court.

Jurisdiction of commissioners.

*3. The jurisdiction, powers and duties of a commissioner shall not extend beyond the bounds of his district, except to grant license to exercise a privilege which is not local, and which may be exercised in or out of such district, according to existing laws.

Bond of commissioner.

†4. Every person elected commissioner shall, within sixty days thereafter, and before entering upon the duties of his office, before the court of the county or corporation wherein he was elected, take the several oaths required by law, and give bond with sufficient security,

* This section is for the first time introduced so as to define more clearly the jurisdiction of a commissioner.

† Because of the increasing importance of the office of commissioner (too frequently entirely underrated), and with a view to make the incumbent more certainly responsible to the government, the legislature has increased the penalty of the bond from one to five thousand dollars.

in a penalty of five thousand dollars, conditioned for the faithful performance of the duties of his office ; which bond shall be made payable to the commonwealth of Virginia ; and after being acknowledged in open court, shall be entered of record in such court. If any commissioner shall fail to take such oaths and give bond within the time herein prescribed, his office shall be deemed vacant ; and it shall be the duty of the court of the county or corporation to declare the vacancy and to direct an election. The qualification, unless to fill a vacancy of part of the term of his predecessor, shall not be construed to invest such commissioner with authority to act as such before the time appointed for him to enter upon the discharge of the duties of his office.

Penalty for failure to give bond.

Commissioner not to act as such until the commencement of his term of office.

5. Within two months after the bond is given, and the several oaths of office taken, the clerk of the court wherein said bond is directed to be filed and recorded, shall transmit a copy thereof, together with a copy of the order of court showing the qualification of such commissioner and acknowledgment of said bond, to the auditor of public accounts. If any clerk shall fail to perform this duty, a fine shall be imposed on him of not less than fifty nor more than one hundred dollars.

Clerks of county courts to transmit copies of bonds of commissioners to auditor.

Penalty for failure.

Lists furnished by clerks and register to commissioner.

6. The clerk of the court of every county and corporation shall annually, in the month of January, make out a list of all deeds for the partition and conveyance of land (except deeds of trust and mortgages made to secure the payment of debts), which may have been lodged in the clerk's office of such court to be recorded (although not fully proved), within the year ending on the thirty-first day of December preceding ; which list

Clerks of county courts to make out a list of deeds for commissioners.

shall state the date of the deed, when admitted to record, names of grantors and grantees, the quantity of the land conveyed, and a description of the same.

Clerks of circuit courts to make out a list of judgments and decrees for partition or recovery of lands, or devised by will.

7. The clerk of every circuit, county and corporation court shall make out a list of all judgments and decrees for the partition or recovery of lands which may have been rendered, and of all lands absolutely devised by wills which may have been recorded in such court within the same year; which list shall state the date of the decree, the land which is the subject of the partition, and between whom and in what proportions it is divided, and the date of the will containing the devise, when admitted to record, names of the deviser and devisee, and a description of the land devised.

Lists in 6th and 7th sections delivered by clerk to commissioner.

8. Every list mentioned in either of the two preceding sections shall be delivered by the clerk to the commissioner for his county or corporation; or if there be more commissioners than one, the clerk shall deliver such list to one of them, and to each of the others a copy, or at least of so much thereof as relates to lands within the district of each. If any clerk shall fail, for one month after the expiration of the said year, to perform any of the duties required of him by this section, or either of the two next preceding, he shall for such failure forfeit fifty dollars.

Penalty on clerk for failure to perform duties.

Clerks to certify collateral inheritance to commissioners.

9. Where any real estate of a decedent shall under his will or by descent pass to any other person, or for any other use than to or for the use of the father, mother, husband, wife, brother, sister or lineal descendant of such decedent, the clerk of the court in which such will is recorded, and the clerk of the court of the county or corporation in which any such real estate is situate, upon ascertaining the fact, shall report the same to the commissioner for the district in which such real estate may be.

10. An abstract shall be made out for each county or corporation of all grants issued from the land office within the year aforesaid, for lands therein. The register shall direct every such abstract to the commissioner of the revenue for the proper county or corporation; and where, in any county there are more commissioners than one, the register shall direct a copy of the abstract for such county, to the clerk of the county court, for each commissioner therein. The same shall be directed to the proper court-house, and mailed within one month after the expiration of the said year; and the register shall pay the postage and receive credit therefor in his settlements with the auditor.

Register of land office to certify to commissioner an abstract of grants.

11. Any party interested may also procure, at his cost, a statement of any such judgment, decree or devise, as is mentioned in the seventh section, and deliver the same to the proper commissioner.

Judgment, decree or devise may be delivered by any person to commissioner.

Books and papers of predecessor; assistant commissioner.

12. The commissioner shall apply for the official books and papers which his predecessor had, to the person in possession thereof, who shall deliver the same on such application. Such person failing to do so, shall forfeit one hundred dollars.

Commissioner to apply for books and papers of predecessor.

Penalty for failure to deliver.

13. The auditor, upon being informed that any such official books or papers cannot be obtained, may authorize the commissioner to procure a substitute therefor. Any such clerk furnishing the same, may be paid therefor such fees out of the treasury as he might by law charge an individual for similar services.

If the books or papers cannot be obtained, auditor to authorize a substitute.

Clerk's fees therefor.

*14. A commissioner unable, from sickness or other

In case of sickness or other cause, commissioner may employ an assistant.

* Heretofore the commissioner could only employ an assistant because of "sickness;" but to prevent the numberless excuses filed at the auditor's office to obtain pay forfeited by a failure to perform the duties of

Liability of commissioner for faithful performance.

cause, to perform the duties of his office, may, at his own expense, with the consent of the county or corporation court, employ a person (approved by the court) to assist him. Such person, after taking the proper oaths, may discharge any of the duties of commissioner, and his principal shall be liable for their faithful performance.

Communications from auditor to commissioners and the courts.

Auditor to furnish commissioner with land and property books, &c.

15. It shall be the duty of the auditor of public accounts to prepare, and forward to the commissioners of the revenue, printed forms for the land and property books; and also for lists of taxable subjects, required to be furnished by the commissioners to persons chargeable with taxes; and he shall also, by letter or printed circular, give such instructions to said commissioners, in respect to their duties, as to him shall seem judicious; and if any commissioner shall refuse to obey any such instructions, he shall forfeit a sum not less than ten nor more than thirty dollars. The expense whereof and of transmitting the same shall be defrayed out of the treasury on the governor's order.

Auditor to give written or printed instructions to commissioners.

Penalty on commissioner for failure to obey instructions.

Auditor to communicate to clerk neglect, misconduct or incapacity of commissioner.

16. The auditor of public accounts shall communicate any instances of the misconduct or neglect of any commissioner, or any evidence of his incapacity furnished by any thing in the auditor's office, in a letter to the clerk of the court of the county wherein such commissioner was elected; which letter the clerk shall lay before the court at the first term after it is received. It shall be the duty of such court to make an order directing that a certified copy of such letter be immediately

the office within certain specified times, this section authorizes such employment for any cause.

posted at the front door of the court-house of such county or corporation; and in counties and corporations having a newspaper published therein, a notice thereof may be published at the discretion of the auditor.*

Power to remove or reappoint.

17. Upon any complaint being made of a commissioner by such letter or otherwise, or whenever the court is satisfied that there has been evident neglect of duty, it may order a summons to issue requiring the commissioner to appear before the court at the next term. And after such summons shall have been served on the commissioner in the manner prescribed by the first section of chapter one hundred and sixty-seven of the Code of Virginia, for at least ten days in either case before the return day thereof, the court shall, at the term to which such summons is returnable, or to which it may be continued, consider whether there has been evident neglect of duty or misconduct in office by such commissioner: and if it shall be of opinion that such cause exists, shall make an order for his removal, and shall forthwith direct an election to fill the vacancy.

Upon complaint, summons to issue against commissioner.

Power of court to remove commissioner.

Making out land book; form thereof.

18. Such changes as may happen within the district of any commissioner, shall be noted by him in his land book, as follows:

Note of changes in land book to be made.

19. He shall enter in the said book and assess the value of all lands in his district, appearing by the register's abstract.

To express value of lands in register's abstract.

* The last paragraph in this section was an amendment proposed in the senate to the bill reported by the committee. It was the intention of the senator to authorize the publication in a newspaper published in the county wherein the commissioner was elected, but it appears to have failed in the object.

Penalty for failure.

ter's abstract to have been granted. If he shall fail to enter any grant (mentioned in the register's abstract) on the first land book made out after the abstract shall have been received by him, he shall for such failure forfeit twenty dollars to the commonwealth, and a like sum to the grantee, which shall be recoverable in a separate proceeding.

Separate lists at end of book of lands purchased for commonwealth.

How re-entered when redeemed.

What done when sold to individuals.

*20. Real estate purchased in for the commonwealth, at a sale for taxes, shall not be thereafter entered in the said book, but the auditor shall keep a register thereof. When, however, any real estate so purchased appears by the auditor's certificate to have been redeemed, the same shall be replaced in the body of the book, in the name of the former owner or his grantee. When real estate is sold for taxes to individuals, the commissioner shall note on his land book the number of acres so sold, and to whom, but shall continue the land upon his said book in the name of the former owner until the purchaser obtains a deed therefor.

Lands decreed or conveyed, to be transferred to owner.

21. The lands appearing on the lists or statements mentioned in the 6th, 7th and 10th sections of this act shall be transferred accordingly on the land book, and charged to the person to whom the transfer is made.

How a tract of land becoming property of different owners is assessed.

22. When a tract or lot becomes the property of different owners in several parcels, the value at which the whole had been assessed shall be divided by the commissioner amongst the several parcels, having regard to the value of each parcel compared with that of the whole tract or lot, and the tax upon the whole shall be apportioned accordingly amongst the owners of the dif-

* It will be observed that real estate purchased by the commonwealth for taxes are to be entirely thereafter omitted from the commissioner's books. The auditor is to keep a register, and to direct when the lands are to be re-entered.

ferent parcels. If any person interested shall be dissatisfied with such apportionment, he may apply to the commissioner to make a reassessment, and the commissioner shall make the same according to the best of his skill and judgment, after ten days' notice of the time thereof to the parties interested, or to such of them as may be in the county or corporation. Any party may, after like notice, apply to the court of the county or corporation to review the commissioner's decision, and it may order his assessment to be corrected.

Assessment of commissioner may be corrected by court.

23. Every commissioner, in making out his land book, shall correct any mistake made in any entry in the land book. But land which has been correctly charged to one person, shall not afterwards be transferred to another without evidence of record, or furnished as aforesaid, that such transfer is proper, except as follows:

Errors of former commissioner to be corrected.

When correctly charged, shall not be transferred without evidence of record.

24. When the owner dies intestate, the commissioner may ascertain who are the heirs of the intestate, and charge the land to such heirs. Where the owner has devised the land absolutely, the commissioner may charge the land to such devisee. If, under the will, the land is to be sold, the land shall continue charged to the decedent's estate until a transfer thereof.

Land of intestate charged to the heirs.

When devised, charged to devisee.

If sold under will, how charged.

25. If land lying in one county, corporation or district, be erroneously assessed in another, the commissioner on whose book it is erroneously assessed, shall certify the owner's name, and the quantity, description and value of the land, to the proper commissioner, who shall enter the same on his book and charge the tax thereon; and the commissioner on whose book it was erroneously entered, shall strike the same therefrom, upon being advised of the entry thereof by the proper commissioner.

If land in one county or district be erroneously assessed in another, how to be entered in the proper county or district.

Land partly in one county and partly in another, where to be entered.
But payment in either county shall be a discharge of so much of the taxes as may be paid.

When new buildings are erected, what to be done.

*26. Land lying partly in one county and partly in another shall be entered by the commissioner of the county in which the greater part lies, but the entry and payment of taxes in the county where any part thereof is situated shall, for such time, be a discharge of so much of the taxes as may be so charged and paid.

And when new buildings are erected, of the value of one hundred dollars or more, upon that part of the land lying in the county in which it is not assessed, the commissioner on whose book it is entered shall assess and add the value of such buildings, as in other cases.

Where land lies in more than one county, and part be conveyed in county where not assessed, what to be done.

27. Where land which lies partly in one county and partly in another, is assessed in the county in which the greater part lies, if the owner thereof shall convey that portion (or any part thereof) lying in the county wherein the same is not assessed, the commissioner of the revenue of the latter county shall enter upon his land book what is so conveyed, and certify the owner's name, and the quantity, description and valuation thereof, to the commissioner of the county wherein the whole was before assessed, who shall strike the part so conveyed from his land book.

Omitted patented land to be entered; assessment to be made; taxes to be charged from date of patent, if issued since 1832; interest on arrears of taxes.

28. When the commissioner shall ascertain that there is any patented land in his district which has not before been entered on his book, or after being entered has, from any cause, been omitted for one or more years, he shall make entry thereof, and of the name of the owner, and if there be no assessment of the same, shall proceed to make such assessment, to the best of his judg-

* Where a tract of land lies partly in one county and partly in another, it is frequently quite difficult to determine the county in which it should be taxed; and this difficulty may endanger the title by forfeiture, if the taxes were assessed in an improper county.

This section, although requiring the land to be assessed in the county where the greater part lies, saves it from forfeiture if the taxes are assessed and paid in a county where any part thereof is situated.

ment, by reference to the assessed value of contiguous lands similarly situated, and shall charge on the land which he so enters, taxes at the rate imposed by law, for each year in which the land was not before entered in such book, from the year eighteen hundred and thirty-two, inclusive, if the patent emanated before that time; and if it did not, then from the date of the patent; together with lawful interest on each year's tax. Any Penalty on commissioner for failing to enter. commissioner failing to make such entry and assessment, shall forfeit twenty dollars.

29. The preceding section shall not, however, be Construction to be given to 28th section. construed to subject a bona fide purchaser of such land to the arrears of said tax, except from the date of his title thereto. Neither shall it be construed to release any lands west of the Alleghany mountains, which have been forfeited, or which may be liable to forfeiture, for not having been entered on the land book and charged with taxes prior to the said year eighteen hundred and thirty-two.

* 30. Each commissioner, before making out his land book (and when he takes the list of taxable personal property), shall carry with him the book of the preceding year, and the entry of lands charged to any person resident or having an agent within his district, shall be shown to such person, or his agent, who shall be required to state on oath whether the same be correctly entered; whether any part thereof ought to be transferred to any other person; and if so, to whom, and the nature of the evidence to authorize such transfer; also to state whether any other land within the district ought to be charged to such resident or non-resident, and to describe the same, as well as to give a descrip- Owner of land to make oath whether it is correctly entered; whether any part ought to be transferred to others. Nature of evidence to authorize transfer.

* The penalty on a commissioner for his failure to comply with this section has been increased, so as to compel a strict compliance with its requirements.

Penalty on owner for failure to comply with this section.

Penalty on commissioner.

tion of any of the lands charged to such resident or non-resident, which may not be correctly entered. And the commissioner shall make such use of the information so obtained as he can properly make, consistently with the other provisions of this act. Any such resident or agent failing to comply with such requisition, shall forfeit fifty dollars. Any commissioner failing to comply with this section shall forfeit one hundred dollars.

How old and new buildings assessed.

Omitted value of old and value of new buildings to be assessed, if of greater value than \$100.

Interest to be charged for omitted years.

31. Each commissioner, before making out his land book, shall assess the value of any old building, omitted for one or more years, and of any building newly erected upon land on his book, together with interest on the taxes at the rate of six per centum per annum for the omitted years. And where any such building not theretofore assessed, whether old or new, is found to be of the value of one hundred dollars or upwards (valuing the same as nearly as may be at the same rate at which other buildings in the same neighborhood were valued by the assessors under the previous general assessment), the value thereof shall be added to the value at which the land was before charged.

New buildings unfit for use not to be assessed.

32. No new building shall be assessed until it be so far finished as to be fit for use. But it shall then be assessed whether entirely finished or not, at the same value as if it were finished upon the plan on which it is designed.

Repairs or additions to buildings to be assessed.

33. Any building which may have been increased in value to one hundred dollars or upwards, by repairs or additions thereto, shall be assessed in the same manner as a new building.

Assessment on buildings de-

34. When from natural decay, or other cause, any building which may have been assessed shall be either

wholly destroyed, or reduced in value below one hundred dollars, the commissioner shall deduct from the charge against the owner the value at which such building may have been assessed. For any failure on the part of the commissioner to comply with this or any of the three next preceding sections, he shall forfeit fifty dollars.

35. The commissioner, in assessing the value of manufacturing or other mills, shall ascertain the value of all machinery and fixtures attached thereto, and include the same in the amount of improvement charged to the owner thereof.

Machinery in manufacturing or other mills; how charged.

Real estate exempt from taxation.

36. All real estate, used for divine worship, or as public burying grounds; or belonging to any county, city or town, and used for public or charitable purposes, and not held or leased out for profit; or belonging to colleges, free schools and incorporated academies, and used for college or school purposes; or to the University of Virginia; to the Virginia military institute; to the institution for the education of the deaf and dumb and the blind; all the lunatic asylums; to orphan asylums; exclusively to the commonwealth; and all such estate used exclusively for the safe keeping of fire engines, and for the meeting of fire companies, whether owned by a fire company or by a city or town; all armories, and the property of the Ladies Mount Vernon association, shall be exempt from taxation: provided, however, that nothing herein contained shall be construed to exempt from taxation any lot or building partially or wholly used as a residence, or for any private purpose.

Churches, burying grounds, schools, colleges and other institutions exempt from taxation.

Town lots, how assessed.

How unoccupied and unimproved lots in the city or town are taxed.

37. The commissioner shall place and retain on his book the assessed value of all improved lots in any city or town, and the value of any building thereon, as well as of all unimproved lots in any such city or town. And the tax on the same shall be estimated according to such assessed value, at the same rate which shall be paid on lands in the country.

A collateral inheritance of real estate, of greater value than \$250, shall, in addition to the annual tax, be charged with a specific tax.

38. Where any real estate of a decedent, of a greater value than two hundred and fifty dollars, shall, by descent or devise, pass to any other person, or for any other use than to or for the use of the decedent's father or other relations, enumerated in the 9th section of this act, the commissioner shall, in addition to the annual land tax imposed upon such real estate, charge thereon a specific tax of two per centum on said estate.

Form of land book.

Form of land book.

39. The commissioner shall make out his land book in such form as the auditor of public accounts may prescribe, showing in one table the tracts of land, and in a separate table the town lots.

Tracts of land to be entered separately; what notes and other facts are to appear in the table.

40. In the table of tracts of land the commissioner shall enter each tract separately, and shall set forth in as many separate columns as may be necessary, the name of the person who by himself or his tenant has the freehold in possession, his place of residence, the nature of his estate, whether in fee or for life, the number of acres in the tract, the name of the tract, if it has a name, and a description of it with reference to contiguous tracts, or to the water courses, mountains or other places on or near which it lies, the distance and bearing

from the court-house, the value of the land per acre, including buildings, the value of the land and buildings, the sum included in the value on account of buildings, the amount of tax on the whole tract at the legal rate, and from whom, when and how the owner derived the land, where this is known, with a note and explanation of any alteration made, showing why and upon what authority it was made.

41. In the table of town lots he shall enter separately each lot, and shall set forth, in as many separate columns as may be necessary, the name of the person, his residence and estate, as in the table of tracts of land, charging lots leased for a term of years on ground rent, including all improvements thereon, not to the lessee, but to the tenant for life or fee simple owner under whom the lessee holds. The commissioner shall set forth in other columns, the number of each lot in the town, with the name of the town, if not previously placed in the caption or heading of the table; a description, where the person does not own the whole lot, of the part which he owns; the value of the buildings on the lot; the value of the lot, including buildings; the amount of tax at the legal rate; and like notice of the source of the title, and explanation of alterations, as in the table of tracts of land.

What is to be shown in table of town lots.

Personal property to be listed for taxation.

*42. All property within this state, and the moneys and credits of persons residing therein, whether such moneys and credits be in or out of the state, except

Property to be listed for taxation.

*It is known to be the case, that large capitalists have transferred their money, and employ their personal property out of this state, so as to avoid taxation here. The old law, as it was interpreted, required the taxes to be paid here. This section requires it, in terms, and does not leave its enforcement to interpretation.

Term moneys
includes what.
Credits, what.

such as is herein after expressly exempted or otherwise taxed, shall be entered on the list of taxable property, and be subject to equal and uniform taxation. The word "moneys" shall include not only gold, silver and copper coins, but bullion and bank notes. The word "credits" shall be construed to mean all contracts for the payment of money or other thing; all claims and demands owing or coming to any person, whether due or not, and whether payable in money, tobacco, or other thing; and where payable in any thing other than money, its present probable value in money shall be listed.

Personal property exempt from taxation.

Personal property exempt.

*43. All personal property described in this section, and to the extent herein limited, shall be exempt from taxation, that is to say:

Household and kitchen furniture in boarding-houses.

The household and kitchen furniture used in a licensed ordinary, house of entertainment or private boarding-house, and belonging to the keeper thereof, the value whereof has been included in such license tax.

Books and furniture of schools, &c.

All books, apparatus and furniture belonging to colleges, free schools and incorporated academies, and used for college or school purposes; to the University of Virginia; to the Virginia military institute; to the institution for the education of the deaf and dumb and the blind; and to the lunatic asylums.

* From the list of exemptions, "provisions and wool of the last year's clip" are omitted, and now form subjects of taxation. Exemptions of agricultural and mineral productions are also limited to those of this state in the hands of the producer or miner.

Unless the household and kitchen furniture used in a licensed ordinary have been included in the license tax, they are not exempt, and should be taxed as other property.

And all personal property belonging to orphan asy- Orphan asylums.
lums, overseers of the poor, and exclusively to the
commonwealth.

All fire engines or other implements for the extin- Fire engines.
guishment of fires.

All books, family portraits and pictures, and the Family portraits.
wearing apparel of every person and family, except
watches and jewelry.

All agricultural productions of this state. Agricultural pro-
ductions.

All mineral productions of this state in the hands of Mineral produc-
the producer or miner. tions.

All felled wood or timber. Wood and tim-
ber.

All plantations of oysters and fisheries. Oysters.

All fowls and animals of every description, except Fowls.
horses, mules, asses and jennets, cattle, sheep and
hogs.

All capital invested in any trade or business for the Capital used in
prosecution of which a license is required. licensed business

All farming implements actually used for farming Farming imple-
ments.
purposes, except road wagons or wagons used princi-
pally for other than farming purposes.

All mechanics' tools used on any farm, or by any Mechanics' tools.
person actually engaged in any trade, occupation or
profession, and the products of any mechanic's labor,
made in this state, and kept by him for sale.

Property used in
licensed business

*44. All property which is the subject of any business, for the prosecution of which a license is required; all open accounts due or owing to the person prosecuting such trade or business, and created in the course of such trade or business; all moneys on hand on the first day of February, received in the course of such trade or business; and so much of the solvent bonds, securities and liquidated claims owing to such person from others, after deducting therefrom the amount owing from such person to others, as such person shall, on oath, aver constitutes a part of the actual active means used and employed by him in carrying on such trade or business, shall together constitute the capital of such person, and shall be exempt from taxation. But nothing in this section shall exempt from taxation any bond or security for any debt or liability contracted or created in any such trade or business previous to the first day of February of the year preceding that of the assessment, whether a new bond or security has been taken for such debt or liability or not.

What bonds and
credits not ex-
empt.

Other property
not exempt.

45. All other property, moneys, bonds, securities and liquidated claims of such persons, not otherwise exempt, shall be listed for taxation.

Who to list property.

Who to list prop-
erty.

Person in pos-
session.

By guardian.

46. Each person of full age and sound mind, not a married woman, shall list the personal property, moneys, contracts and credits in his possession or under his control or care, subject to taxation, and the subjects and persons on account of which he is chargeable with taxes or county levies. The property of a minor shall be

* By the latter clause in this section, it will appear that a limitation has been placed on the exemptions of property growing out of, but not used in a licensed business. The section defines what constitutes the actual active means employed by a merchant in carrying on his business.

listed by his guardian; if he has no other guardian, by his father, if living; if not, by his mother, if living; if neither be living, by the person having charge of the property: of a wife, by her husband, if of sound mind; By husband. if not, by herself: of a deceased person, idiot or lunatic, by the personal representative or committee: Committee or personal representative. of a person for whom property is held in trust, by the trustee: of a corporation whose assets are in the hands of By agents. agents, receivers or factors, by such agent, receiver or factor: of every company, firm, body politic or corporate, by the principal accounting officer, partner or By principal accounting officer. agent thereof: all moneys, bonds or other evidences of debt under the control of any receiver or commissioner, by such receiver or commissioner: and all moneys deposited in any bank to the credit of any suit, by the Money deposited to credit of a suit by the clerk of the court. clerk of the court in which such suit is. Personal property not situated in the county, city or town in which the owner or the person required by this act to list the same for taxation resides, shall be listed by the agent of such owner or other person in the county, city or town where such property is, unless such owner or other person shall cause it to be otherwise listed in such last mentioned county, city or town. All bonds, Claims listed where debtor resides. evidences of debt and claims, wherever the debtor may reside, and all moneys, shall be listed by the owner thereof, or by the person required by this act to list the same for taxation, or by the agent of such owner or other person having the control and custody of such bonds, evidences of debt, claims, contracts and moneys.

Persons and slaves ascertained for taxes and levies.

* 47. The number of white male inhabitants, free Number of white

* This section carries out the spirit of the constitution, which prohibits the exemption of a slave on account of bodily infirmity. It also carries out another just provision, that every person shall pay taxes at some place.

persons, free negroes and slaves residing in any district on the first day of February in each year, shall be ascertained and classified as follows:

White males.

Each commissioner of the revenue shall ascertain the number of white male inhabitants in his district, who have attained the age of twenty-one years, and who are not exempt from taxation on account of bodily infirmities.

The number of free male persons above the age of sixteen years.

Free negroes.

The number of male free negroes above the age of twenty-one years who are not exempt from taxation on account of bodily infirmities.

Slaves.

To include persons and property removed from one county to another after the 1st of February.

The number of slaves who have attained the age of twelve years, and the number of slaves who have attained the age of sixteen years. And herein shall be included all persons and property removed from one county or city to another, between the first of February and the time the commissioner's books are certified by the clerk; but persons assessed, and who have paid their taxes in any county, may be exonerated in any other for that year.

Personal property, moneys and credits.

Commissioner to * 48. He shall ascertain all the personal property in

* Bonds for the hire of slaves have been claimed by the holders to be and are denominated "contracts" as contradistinguished from bonds "moneys" and "credits," and thereby taxation has been evaded. Slaves are sometimes hired in January, and no bond taken until after the first of February, and by such means the bond escapes taxation. This section has been amended so as to embrace, as subjects of taxation, all such cases. That the legislature intended such bonds to be taxed, was proved by a motion in the house of delegates at the last session to exempt such bonds, which motion was defeated.

his district on the said first day of February in each year, not exempt from taxation, and the value thereof; and all moneys, contracts for money or other thing, and all credits, whether in or out of the state, belonging to each person residing in his district, and the value of such credits. And herein shall be included all moneys, credits, capital or other thing loaned, used or employed in business out of the state, by himself, his agent or other person for him.

ascertain all personal property in his district on 1st February.

All moneys or credits in or out of the state owned in his district.

Interest or profits on public bonds.

* 49. He shall ascertain from each person residing in his district the amount of interest or profit which has been received by such person, or been converted into principal so as to become an interest-bearing subject, or otherwise appropriated, within the year next preceding the first day of February, arising from bonds or certificates of debt of this or any other state or country, or of any public corporation created by this or another state.

To ascertain the interest or profit on public bonds of this or any other state.

Bonds, securities and liquidated claims.

† 50. He shall ascertain from each person residing in his district the amount of all solvent bonds and securities, other than those mentioned in the preceding section, and of all solvent, liquidated and certain demands and claims, however evidenced, owing and coming to such person, whether due or not, on the first day of

All other bonds, securities and liquidated claims.

* By this section the "interest or profit" received, arising from state bonds, or bonds of a corporation in or out of this state, are to be taxed. The bonds themselves, *as such*, are not taxable, and no offset of the holder's debts can be allowed against them. Such offset is reserved for *private credits*, under the 50th section.

† The unsettled book accounts heretofore exempt from taxes, are confined in this section to those which have accrued in a licensed business within the year next preceding.

Deducting am't due from the holder thereof as principal debtor.

Unsettled book accounts not included, if they have accrued in a licensed business.

How value of bond estimated.

February, deducting from the aggregate amount thereof the amount of all such bonds, securities, claims and demands owing to others from such person, as principal debtor, and not as guarantor, endorser or surety; but in neither case shall unsettled book accounts which have accrued in a licensed business within the year next preceding be included. The aggregate of principal and interest shall constitute the amount of a bond or claim due and payable. The present value, after deducting the legal interest, shall constitute the amount of a bond or claim not yet due and payable, and which bears no interest.

Incomes.

Incomes to be listed.

* 51. He shall ascertain from each person residing in his district the value of his income during the year next preceding the first day of February, where such income exceeds two hundred and fifty dollars, in consideration of the discharge of any office or employment in the service of this state, or of any of the United States, or in consideration of the discharge of any office or employment in the service of any corporation created by this or any other state, or in the service of any company, firm or person, except where the service is that of a minister of the gospel or a professor in a theological seminary.

Who exempt.

Toll bridges or ferries.

Toll bridges and ferries.

52. He shall ascertain the yearly value of all toll bridges and ferries in his district, except such as are ex-

* The income arising from a *licensed business* is to be included in the license, and is not to be entered on the commissioner's books. The words "other than that of an officer receiving a salary out of the treasury," were stricken out, so as to conform the assessments to the tax bill, which imposes a tax on all income above \$250; and the only exemption is the income of a minister of the gospel.

empt from taxation. He shall be governed by the actual rent received where such toll bridges and ferries are rented or leased out; otherwise, he shall make a just estimate of value. How valued.

Incorporated joint stock companies.

53. He shall ascertain from the proper officers of all incorporated joint stock companies in his district, except banks of circulation and companies incorporated for purposes of internal improvement, the actual value of their capital, not including that invested in real estate or slaves, used, employed or invested in the business for which such companies were respectively incorporated. Their real estate and slaves shall be listed and assessed as in other cases. Incorporated joint stock companies. What excepted.

Insurance companies and savings institutions.

*54. He shall ascertain the capital, not invested in real estate or slaves, of all insurance companies and savings institutions other than those which have within the year preceding the first day of February declared dividends or profits. He shall ascertain also all such companies and institutions which have declared such dividends or profits, and shall list for taxation the amount of such dividends declared within one year preceding the first day of February in each year. The real estate and slaves of such companies and institutions shall be assessed and listed as in other cases. And the lists required by this section shall be put at the end of the commissioner's property book, separate from other lists. Insurance companies and savings institutions not declaring dividends. Declaring dividends. Lists to be put at the end of commissioner's property book.

* Lists of savings institutions and insurance companies are to be made at the end of the commissioners' property books separate from other lists.

Capital where no license is required.

Capital in any business for which no license is required, to be listed.

55. He shall ascertain from all persons residing in his district the capital invested, used or employed by them in any manufacturing or mining business, or in any trade or business, except agriculture, for which no license is required, not including therein the assessed value of their real estate and the value of their slaves, which shall be listed and assessed as in other cases; but in neither of the cases mentioned in this section, and the next preceding two sections, shall the personal property, except slaves, credits and moneys used, acquired or held in such trade or business, be otherwise assessed or listed than as such capital.

Receivers, commissioners and clerks of courts.

Receivers, commissioners and clerks of courts. When and how to list property.

*56. He shall ascertain from each person in his district, who acts under the order of any court, as receiver or commissioner, the amount of all moneys and bonds, or other evidences of debt under his control, the right to which may be undecided, and the style of the suit to which such fund belongs; and from the clerk of each court, the amount deposited, by order of such court, in any bank or savings institution, to the credit of any suit in such court, and the style of such suit.

Fees of office.

Fees of office, whether paid or

57. He shall ascertain from every person residing in his district the amount of all fees derived by him from

* This section has been amended so as to release a receiver, &c. from listing moneys and bonds, "the right to which has been decided." Those *undecided* are to be listed by such receiver, and those decided are to be listed by the owner thereof.

any office, calling or profession for which no license is required; but the amount of such fees (if not paid) shall, if solvent, be listed as part of the certain and liquidated claims of such person.

unpaid, if solvent, to be listed.

Internal improvement companies.

*58. Every rail road company or canal company shall hereafter report quarterly, on the fifteenth day of March, June, September and December in each year, to the auditor of public accounts, the number of passengers transported, and the aggregate number of miles traveled by them within the commonwealth, and the gross amount received by such company for the transportation of freight over such road or canal, or any part thereof, during the quarter of the year next preceding the first day of the month in which such report is made. Such company, whose road or canal is only in part within the commonwealth, shall report as aforesaid such portion only of such amount received for the transportation of freight, as the part of the said road or canal, which is within this commonwealth, bears to the whole of such road or canal.

Rail road and canal companies to report quarterly to the auditor; and what to report.

When rail road or canal is only partly in the state, how and what to report.

59. Such statement shall be verified by the oaths of the president and the superintendent of transportation or other proper officer. Every company failing to make such report shall be fined five hundred dollars. At the time of making such report the company shall pay into the treasury, for every passenger transported, a tax at the rate of one mill for every mile of transportation of each of such passengers, and a tax of one-half of one

How report verified.

Penalty for failure to report.

Mill tax and percentage on receipts to be paid, and when.

* The words "not exempted by its charter from taxation," were stricken out of the former law, of which this is an amendment, so as to enforce a tax on all companies. The reports are to be quarterly instead of semi-annually as heretofore, and the tax includes the former "mill tax," and adds one-half of one per cent. on the gross earnings for the transportation of freight.

Proceedings to
be had in the
event of the fail-
ure of a com-
pany to pay such
tax.

per centum of such gross amount received for the transportation of freights. Every such company paying such taxes shall not be assessed with any tax on its lands, buildings, cars, boats, or other property which they are authorized by law to hold or have. But if any such company fail to pay such taxes at either of the terms specified therefor, then its lands, buildings, cars, boats and other property shall be immediately assessed under the directions of the auditor of public accounts, by any person appointed by him for the purpose, at its full value, and a tax shall at once be levied thereon as on real estate and other property, to be collected by any sheriff whom the auditor may direct, and such sheriff shall distrain and sell any personal property of such company, and pay such taxes into the treasury within three months from the time when such assessment is furnished to him.

Where slaves and other property listed.

Internal im-
provement com-
panies; who to
list.

*60. The commissioner of the district, within which the principal office or place of business within this commonwealth of any company incorporated for a work of internal improvement may be, shall ascertain, and state in separate columns, the number of slaves who have attained the age of twelve years, owned or hired by such company, and the aggregate value of all personal property belonging to such company, wherever such slaves or property may be; the amount of moneys on

What property
to be listed.
Slaves owned or
hired.

Money, bonds,
&c.

* See ch. 104 of Acts of 1857-8. "The land which a rail road may acquire for buildings, or for an abutment along its line generally, shall not exceed three acres in any one parcel; and the land which it may acquire for buildings or other purposes of the company, at the principal termini of its work, or at any place or places within five miles of such termini, shall not exceed fifteen acres in any one parcel; but in case of a rail road company, an amount of land not exceeding forty acres in any one parcel, may be acquired for its main depots, machine shops, and other necessary purposes connected with the business of the company."

hand, and the aggregate amount of all solvent bonds, securities and liquidated claims owing to such company, after deducting therefrom the amount due from such company to others, according to the provisions of the 50th section of this act. The real estate of such com- Real estate.pany, with the improvements thereon, shall be assessed as in other cases; but the real estate, cars, engines and What exempted. other property appertaining and essential to the use of its franchise, belonging to a company whose property is exempt by its charter from taxation, shall not be listed and assessed. Nor shall the lands, buildings or equipments of a rail road or canal which it may lawfully acquire, and which pays a tax on the passengers and freight transported over such road, be assessed under the provisions of this section; but any excess of lands, Excess of land above the quantity authorized by law not exempt. above the quantity authorized to be held by law, by such last mentioned company, shall be assessed as other property.

When commissioners begin their duties.

61. Each commissioner shall begin, annually, on the first day of February, and proceed, without delay, to When commissioners to begin their duties. ascertain all the persons and property, on that day, in his district subject to taxes and county levies, and otherwise to discharge the duties prescribed by this act.

How lists of taxable subjects and levies procured.

62. The commissioner shall call upon every person How lists and levies procured. in his district, required by this act to give in a list of property, moneys, credits, or other subjects of taxation, and the value thereof, or of the persons in respect to which he is chargeable with county levies, for a list thereof; and may apply to any officer or agent of a company, or to any person interested therein; and

Penalty for failure to call on any person or administer the oath.

shall administer an oath to any person to make true answers to such questions as he may ask him in relation to any matter about which the commissioner is authorized to enquire. A commissioner failing to make any call or administer the oath required by this section, shall forfeit fifty dollars.

The value of property to be assessed.

Value of property; how assessed.

In case of controversy, how decided.

63. The commissioner shall also ascertain and assess the value of all property other than slaves, ascertained and listed as aforesaid; and if in any case a person shall consider himself aggrieved by the valuation of the commissioner, such person and the commissioner respectively shall choose two discreet voters, to whom shall be referred the matter of controversy; and their decision, or that of an umpire chosen by them, shall be final. Each list, with the valuations of property annexed, shall be read over by the commissioner to the person from whom it is obtained, or on whose information it is made out, and shall be corrected in such respects as may be necessary.

Lists to have reference to the first of February.

Lists to have reference to 1st of February preceding.

Answers to be on oath.

Penalty for failure to administer oath.

64. The commissioner shall endeavor, by asking proper questions and obtaining answers thereto, to have in such lists a correct and full statement of the persons and of personal property, and the value thereof, in his district subject to taxation or county levy, which were in the possession or care of each person in such district on the first day of February, and of all the other subjects before mentioned, on account of which any person or company in his district was then chargeable. The answers to the commissioner's questions shall always be on oath. A commissioner failing to administer such oath, unless the person refuse to take it, shall forfeit fifty dollars.

When forms may be furnished to tax payers.

65. If any person shall desire it, the commissioner shall furnish or cause to be furnished him proper forms of such lists and valuations, and such persons shall, within ten days thereafter, make out and deliver to the commissioner, or deposit with the clerk of the county or corporation court, statements of all property, moneys, contracts and credits which such person is required by this act to list, and of all subjects and persons on account of which he is chargeable with taxes or county levies. He shall annex, in the form prescribed by the commissioner, valuations of the property listed, except slaves; and shall take and subscribe an oath, to be appended to such statement, to the following effect, viz :

“I do solemnly swear (or affirm) that to the best of my knowledge and belief, the annexed statements contain accurate, full and complete lists of all property, moneys and credits, whether the same are in or out of the state, which I am required to list, and of all subjects and persons on account of which I am chargeable with taxes or county levies, and that in my opinion the valuations of property listed are not below the fair cash value thereof. So help me God.”

Which oath may be administered by the commissioner or any other officer authorized by law to administer an oath: and if any person be absent from his residence at the time the commissioner calls (and there be no person on the premises authorized to act for such person), the commissioner shall leave or cause to be left for such person at his residence, with some white member of his family over the age of sixteen years; or if there be no such white person on the premises, shall otherwise cause to be delivered to such person proper forms, to enable

When forms to
be furnished.

When made out,
and how re-
turned.

Form of oath to
be taken by the
tax payer.

By whom admin-
istered.

If any person
absent from
home, how list
obtained.

With whom
notice left.

Within what time and how list to be made out.

When released from obligation to make valuation.

When commissioner not satisfied with valuation, how made.

him to make out the statements aforesaid, with the form of the oath aforesaid appended thereto; and it shall be the duty of such person within ten days thereafter, to make out and deliver to the commissioner, or deposit with the clerk as aforesaid, such lists, with the valuations of property annexed, verified by affidavit, as are herein before required; but any such person, desiring the forms to be furnished to him as aforesaid, may be released from the obligation of valuing the property listed as aforesaid, by exhibiting the same to the commissioner, who shall thereupon assess the value thereof; and any such person who is absent when the commissioner calls at his residence, may decline to include a valuation of his property in the statements required to be delivered or deposited as aforesaid; and in such case, the commissioner shall ascertain the value of such property; and if the commissioner is not satisfied with the valuation of the property made by any such person, he may adopt what he deems a fair and proper valuation thereof; and in case such person shall consider himself aggrieved by such valuation, the controversy shall be decided in the manner prescribed in the 63d section of this act.

Household and kitchen furniture, how listed.

Furniture listed in the aggregate.

66. This act shall not be construed to require any person to furnish, or the commissioner to take, a list of the articles of such person's household and kitchen furniture, other than those specified by this act, but only the aggregate value thereof.

If not furnished, the commissioner to obtain lists.

If lists not furnished, how information obtained.

67. If any person shall fail to furnish a list of the subjects of taxation and county levies required by this act, and a valuation of the property listed, the commis-

sioner shall proceed to list the same, and assess the value thereof, on the best information he can obtain; and to that end may examine any person on oath, and whether such person fail to furnish such list or not, the commissioner may call for any proper information in the possession of any officer of this state, who shall furnish the same to him.

Penalties for failing to comply with this act.

*68. If any person, after being furnished with the proper forms as aforesaid, shall fail, within the time mentioned in this act, to deliver or deposit the lists in the manner prescribed by this act, he shall forfeit ten dollars. If any person shall refuse to exhibit to the commissioner any property listed, or required by this act to be listed, by him, in order that a fair valuation thereof may be assessed, he shall pay a fine of not less than twenty nor more than one hundred dollars. Any person failing to comply with this section shall be noted at the end of the commissioner's property book, or be otherwise specially reported by the commissioner to the auditor of public accounts.

Penalty for failure to furnish lists.

For refusing to exhibit property to commissioner for valuation.

Statements of persons and property.

69. From the lists procured as aforesaid, the commissioner for each district shall make accurate statements in the form to be prescribed by the auditor of public accounts, which shall truly and distinctly set forth:

Statement to be made out in form furnished by auditor.

* Any person who shall "fail" to deposit with the clerk the lists required, forfeits \$10. If he fail to exhibit the property so that a fair valuation can be made, he forfeits not less than \$20 nor more than \$100. For a failure in either case, he is to be reported to the auditor of public accounts, either by a note at the end of the commissioner's property book, or specially.

ASSESSMENT OF TAXES ON PERSONS AND PROPERTY.

The number of white male inhabitants who have attained the age of twenty-one years, except those exempted from taxation on account of bodily infirmity.

Persons to be assessed for county levies. The number of free male persons above the age of sixteen years.

Free negroes. Exemption. The number of male free negroes above the age of twenty-one years, except those exempted from taxation on account of bodily infirmity.

Slaves subject to state tax. The number of slaves who have attained the age of twelve years.

Slaves subject to county levies. The number of slaves who have attained the age of sixteen years.

Horses, mules and asses. The number of horses, mules, asses and jennets, and the value thereof.

Cattle. *The number of cattle, and the value thereof.

Sheep. The number of sheep, and the value thereof.

Hogs. The number of hogs, and the value thereof.

Household furniture. The aggregate value of all household and kitchen furniture.

Carriages, &c. The number of pleasure carriages, stage coaches, jersey wagons, carryalls, gigs, buggies, and vehicles of like kind, and the value thereof, not including those manufactured in this state for sale.

Watches. The number of watches, and the value thereof.

* By this section it is also required that the commissioner shall state in his book, in separate columns, "the number of cattle and the value thereof," and a like column for sheep and hogs.

The number of clocks, and the value thereof, whether Clocks.
in use or not.

The number of piano fortes and harps, and the value Pianos and harps
thereof.

*All gold and silver plate, plated ware and jewelry, Jewelry.
and the value thereof, not including any watches, clocks,
piano fortes, harps, gold or silver plate, plated ware or
jewelry kept in any shop or manufactory for sale, and
is the subject of a license tax.

The aggregate amount of all moneys, solvent bonds, Money and bonds.
contracts for money or other thing, securities and liqui-
dated claims.

The amount of interest or profit from public bonds Public bonds;
interest thereon
or certificates of debt of this or any other state, or com-
panies incorporated by this or any other state. taxed.

The amount of incomes other than that derived from Income.
the practice of a physician, surgeon, dentist or attorney
at law, included in their license.

The yearly rent or value of toll bridges and ferries. Toll bridges.

The capital of all incorporated joint stock compa- Joint stock com-
panies.
nies (other than banks of circulation and internal im-
provement companies), and of all insurance companies
and savings institutions which declare no dividends of
profits.

The amount of dividends declared by such insurance Dividends of in-
surance com-
panies.
companies and savings institutions that declare divi-
dends.

* As "plated ware" has been held *not* to be "silver plate," and under
such interpretation the tax avoided, both have been introduced in this
section as taxable subjects.

Manufacturing
companies.

The capital invested or used in any manufacturing or mining business, or invested or employed in any trade or business for which no license is required.

Fees of office.

The amount of all fees of office.

Money under
control of court.

The amount of moneys, bonds, contracts or other evidences of debt under the control of any court, receiver or commissioner.

Personal prop-
erty, value
thereof.

The aggregate value of the personal property and the amount of moneys, bonds and claims of internal improvement companies, other than the equipments of a rail road company, which pays a tax on the passengers transported over the same.

Exemption.

All personal prop-
erty to be put
in one column.

All other articles of personal property not described in the enumerations contained in this section, nor exempted by this act, shall be set forth in a separate and distinct column, together with the value thereof.

Omitted lists to be placed on the next year's books.

Omitted lists,
how charged.

70. If a commissioner shall discover in making up his land or property books, that any taxes or levies have been omitted for any former year, he shall charge therein such omitted taxes or levies, with lawful interest thereon.

Personal property book to be made.

Personal prop-
erty book; how
made.

71. Each commissioner shall make a book containing the names of the owners of property, and other persons taxed or subject to levies, alphabetically arranged, and giving information in such form as the audi-

* The section of which this is an amendment, only authorized the omitted taxes on personal property and levies to be charged with interest. This amendment includes lands.

tor of public accounts may prescribe, as to all persons and subjects on which taxes may be assessed. Opposite the name of each person shall be extended the whole amount of public tax due from him.

Public tax extended.

Rules both as to land book and book of personal property.

*72. He shall add up the columns of figures on each page, so as to show at the bottom of each the total aggregate of each column, and number of persons and articles subject to taxation, with the amount of the public tax due on every thing contained in such page; and at the end of each book he shall enter the sums from the bottoms of the respective pages, by reference thereto, so as to present at one view the various species and total number of the subjects of taxation within his district, and the total amount of the revenue arising therefrom.

How columns of figures are to be added up. Total amount of taxes and subjects of taxation to be entered at end of book.

73. The land of any decedent shall be charged to his estate, until it can be properly charged to the heir, devisee or grantee. And the personal property of the decedent shall be likewise charged to his estate until the same be disposed of. While either continues charged to the estate, the personal property shall be liable for the tax on all so charged, and subject to distress or other lawful process for the recovery of the same. Any assets in the hands of the personal representative of the decedent shall be likewise liable therefor.

Decedent's land to be charged to his estate, until it can be charged to heir or devisee. Assets liable for taxes.

74. The commissioner shall make a particular report on oath to the court of his county or corporation, of all his own property subject to taxes or levies, showing the whole amount chargeable to him therefor. On his book

Commissioner's own property to be reported by him to court; charged on book as other property.

* Unless the columns are added up as required by this section the clerk is not authorized to examine the books. See sections 83 and 84 of this act.

his property shall be entered and taxes and levies charged to him in like manner as to any other person.

Penalty for failure to comply with this section.

For failing to perform any duty required by this section, he shall forfeit one hundred dollars.

Books for former years; how made.

Where no commissioner of a former year, commissioner shall make out books for such year. Rate of taxation for such year.

75. In any case in which, in consequence of there being no commissioner for a former year, or from any other cause, no book was made out of the land tax, or of the tax on personal property, or of those subject to levy in any district for that year, the commissioner of such district shall proceed to make out books for such year, according to the rate of tax or levy which then existed, as well as books for the current year. The like proceedings shall be had with and under the books of such former year as with those of the current year, and the sums therein charged shall be collected and accounted for in like manner.

Three copies of land and property book to be made out.

Oath to be attached to property book.

76. The commissioner, after completing his land book and his book of personal property, shall make three fair copies thereof. At the foot of each copy he shall make and subscribe the following oath: "I, A B, commissioner of the revenue for the county (or corporation) of _____, do swear, that in making out the foregoing book I have, to the best of my knowledge and ability, pursued the laws prescribing the duties of a commissioner of the revenue." And the justice before whom the oath is taken shall annex thereto the following certificate: "Sworn to before me, C D, a justice for the county (or corporation) of _____, on the _____ day of _____." Which certificate shall be subscribed by the justice. The oath at the foot of the copy of the land book shall contain these additional words: "And that I have faithfully discharged the duties required of me in assessing improvements upon lands, and have made all corrections in said book, as required by law."

Oath to be attached to land book.

77. The original of each book shall be retained by the commissioner so long as he continues in office, and then be delivered to his successor. If he fail herein, or if he fail to make the copies required by the next preceding section, he shall forfeit fifty dollars.

Original books to be retained by him; how long.

Penalty for failure to deliver books to his successor, or make the copies required.

78. The three copies of each book sworn to as aforesaid, together with such lists as the commissioner may have taken from individuals, shall be delivered by the commissioner to the clerk of the court for the county or corporation wherein he was elected, for examination.

Three copies of each book to be delivered to clerk.

When and how books examined.

79. Within twelve days after they shall have been received by the clerk, he shall examine the same.

Time within which clerk shall examine the books.

80. He shall compare each copy of the land book with the land book of the preceding year, with the records of his office, where necessary, and with such transcripts, abstracts or statements from the records of other offices, as the commissioner shall lay before him.

How land books to be compared and examined.

81. He shall compare the book of personal property with the lists taken by the commissioner from individuals, and examine the same in such other way as the records of his office and his information will enable him to do.

How property books to be compared and examined.

82. The commissioner shall attend at the clerk's office and assist at the examination, so far as may be desired by the clerk; and the clerk shall point out to the commissioner such errors (if any) as in his opinion may exist in any of the books. Every such error shall be corrected, when the commissioner and the clerk concur as to the propriety of such correction. When they differ, the matter in difference shall be submitted to the

Commissioner to assist in the examination.

All errors to be corrected.

When the clerk and commissioner differ, to

be submitted to the attorney for the commonwealth.

If the attorney fail to decide, to be submitted to the court.

attorney for the commonwealth in the county or corporation in which the commissioner was elected; and they shall conform to his decision. If he fail to decide the matter before the next term, it shall then be submitted to and decided by the court of such county or corporation; and the books shall be made to conform to such decision.

Certificate of the clerk to be annexed to each copy of land book.

Form of clerk's certificate.

*§3. When the examination of the clerk is completed, and he find that the additions required by the 72d section have been made, he shall annex to each copy of the land book a certificate to the following effect: "I, E F, clerk (or deputy clerk) of the court for the county (or corporation) of _____, do hereby certify that I have carefully examined the foregoing land book; that I have compared it with the land book of the preceding year, with the records of my office, where necessary, and with such lists, abstracts or statements from the records of other offices, as the commissioner laid before me, and that I find the same correct (or, and that such errors as were found in the book when it was delivered to me, have been corrected according to law). Given under my hand this _____ day of _____."

Clerk's certificate to be annexed to each copy of the property book.

What to certify.

Certificate to be laid before court and recorded.

§4. When all the columns of the property books have been added up, as required by the 72d section of this act, the clerk shall make such certificate as the result of his examination will justify. He shall state whether the book appears to him to be correct, or whether it appears to be incorrect or carelessly made out. His certificate shall be laid before the court at the succeeding term, and recorded among the proceedings of the court.

* The clerk is not required to examine either the land or the property books until all the columns are added up. See this, and § 84 of this act.

*85. If the clerk carelessly perform any of the duties herein required of him, his claim for the examination of the books shall be suspended until the duties herein required are properly performed; and if he fail to perform any of the duties above required of him, he shall forfeit one hundred dollars.

Claim of clerk to be suspended until the duties required have been properly performed.

Penalty for failure to perform duties.

What to be done with books.

86. One copy of the land book, and one of the book of personal property, shall be preserved by the clerk amongst his records, free for the inspection of any person, and a copy of either or any part thereof may be had at the charge of any person desiring the same. The copy of the book of personal property preserved by the clerk shall also serve for laying the county levy.

One copy of land and property book to be preserved by clerk.

87. One copy of each book shall be delivered by the commissioner to the sheriff or other officer authorized to collect the taxes therein assessed, which shall be his guide in collecting the same.

One copy of land and property book to be delivered to sheriff.

88. The other copy of each shall be transmitted to the auditor of public accounts by the commissioner, with his certificate stating that he has delivered a duplicate thereof to the sheriff or other officer, and the time of the delivery. This copy shall be a guide for the auditor to settle by with such sheriff or other officer. It shall be admitted as evidence in any proceeding for judgment against such sheriff or officer on account of the taxes with which he is chargeable.

Copy transmitted to auditor; his guide for settlement with sheriff.

89. The commissioner may require from the clerk, Commissioner

* As a check upon clerks who may be disposed to certify the books of a commissioner as "correct," instead of "incorrect or carelessly made out," this section makes provision for enquiring into his conduct, and suspends his claim until the duties are properly performed.

may require
receipt.

sheriff (or other officer) and auditor, a receipt or acknowledgment in writing of the delivery of the said books to them respectively.

Penalties on commissioners; their fees and compensation.

Penalty for false
entry.

90. If any commissioner shall knowingly make a false or erroneous entry on any of his books, he shall, for every such offence, forfeit two hundred dollars.

Penalty for fail-
ure to deliver
books.

91. If the duty prescribed by the 78th section shall not be performed before the first day of June, or if the duty prescribed by the eighty-seventh section shall not be performed before the fifteenth day of June, or if the duty prescribed by the eighty-eighth section shall not be performed before the first day of August, the commissioner failing to perform any of these duties, shall, for such failure, pay a fine of not less than one hundred nor more than five hundred dollars. And moreover, the auditor of public accounts shall suspend the payment of his compensation.

Deductions from
commissioner's
compensation
for errors.

*92. If a commissioner shall, either in his land book or his book of personal property, charge or extend in any case a less tax than the law requires, the auditor of public accounts shall deduct the amount omitted to be charged or extended, from the compensation of the commissioner.

Fees of commissioners.

Fees to commis-
sioner.
For making an
entry of land.

†93. Each commissioner shall be entitled to the following fees: For making an entry and assessment

* This section, although not amended, should be carefully considered by the commissioner.

† This section amends § 87 of ch. 35 of the Code, and denies a fee for the entry of lands which become the property of different owners, as described in § 22 of this act, unless made at the request of an owner. It denies a fee also for any correction in a commissioner's book.

under the 25th section, of any parcel of land, one dollar for every such parcel, to be paid by the owner; for making an assessment, when requested by any owner of any part of the land, under the 22d section, one dollar, for which the parties amongst whom the land is divided shall be jointly and severally liable, except where the commissioner's proceedings are confirmed by the court; in which case the party complaining shall pay the commissioner's fee, in addition to the costs incurred in consequence of the application to the court; for making an entry transferring lands, before charged to one person, unto another, seventy-five cents, which shall be charged to the person to whom the transfer is made, and be a compensation for all the tracts in the commissioner's district conveyed by the same deed; for an entry of any grant according to the 19th section, a fee of twenty-five cents from the grantee, and fifty cents from him for assessing the value of the land granted.

For making an assessment of land.

For transferring land from one person to another.

For entry of a grant.

Fees; how made out and collected.

94. The commissioners may make out tickets for their fees, and place them in the hands of a sheriff or other officer, to be collected and accounted for in the same manner that clerks' fees are collected and accounted for. The said commissioners shall be subject to the same penalties as clerks of courts for issuing tickets wrongfully.

Fee bills to be made out; how to be accounted for.

Commissioner's compensation other than fees.

*95. Every commissioner of the revenue shall be en-

Compensation of commissioners.

* The commissions authorized by this act having been held by the auditor to include the taxes assessed on "lands, persons and personal property," a proposition was submitted to the general assembly to restrict the commissions to the assessment of taxes on persons and personal property, upon the idea that the commissioner did not "assess" taxes on real estate; but the proposition was defeated, thereby approving the decision of the auditor.

titled to receive, in consideration of his services, to be paid on or before the first day of September, out of the treasury, upon the warrant of the auditor of public accounts, a commission of two and one-half per centum on the amount of taxes lawfully assessed by him on persons and property within the preceding twelve months. But where the taxes on persons and property assessed in any district in a county exceed twenty thousand dollars, the commission allowed on the excess shall be only one and a half per centum; and where the said taxes assessed in any district in a town exceed sixteen thousand dollars, the commission allowed on the excess shall be only one per centum.

Where taxes assessed exceed \$20,000.

Where the taxes assessed in a town exceed \$16,000.

Counties in which the compensation shall not be less than \$200.

Not less than \$125.

Not less than \$100.

Not less than \$150.

Auditor to pay postage advanced by commissioner.

Fee for register-

*96. The preceding section shall not have the effect to reduce the compensation to each of the commissioners of the counties of Gilmer, Pocahontas, Pendleton, Putnam, Raleigh, Ritchie, Tyler, Upshur and Wirt, below the sum of \$200; to each of the commissioners of the counties of Bath, Carroll and Prince William, and the corporation of Danville, below the sum of \$125; and to each of the commissioners of the counties of Grayson and Giles, and the city of Williamsburg, below the sum of \$100; and the allowance to any commissioner of any county not mentioned in this section, now existing, or which may be hereafter created, shall, at the election of the commissioner, be the commissions allowed in the next preceding section, or a specific allowance of \$150. The auditor of public accounts shall also pay to the several commissioners all postage advanced by them in the transmission of their books or any correspondence touching the duties of their office, and a fee of three

* This section authorizes the payment to a commissioner of all postage advanced by him, and for births and deaths registered by him. All such payments may be made without any previous order of court; but it is apparent the payment cannot be made till the returns are received, and shown to be accurately made out.

cents for each birth and death registered and returned by him. ing births and deaths.

When compensation suspended.

97. The said compensation hereby allowed to a commissioner, shall be denied unless he has punctually performed his duties in reference to listing of births and deaths, to the assessment of property and licenses, and made all reports required, within the time prescribed by law, or can show to the satisfaction of the auditor of public accounts, a strong and sufficient reason for his delay. In every such case the auditor may settle with such commissioner for his services, upon equitable principles, and shall report to the general assembly every such case, his reasons for excusing the same, and his equitable settlement thereof. Compensation to be denied in certain cases. Auditor may settle with commissioner upon equitable principles.

Compensation for services omitted by other commissioner.

98. Where, however, any commissioner makes out books for a former year, such compensation may be allowed him, in addition to what he is entitled to for his services during the current year, as he would have received in a former year, had he then been appointed, and performed the duties of commissioner. Compensation for making out books of former years.

99. When one commissioner begins in any year, and dies or is removed before the services to be rendered by the commissioner in that year are fully performed, in consequence whereof another is elected who completes the same, the sum to be paid for the whole services of the commissioners in that year, shall be apportioned between the commissioner last elected and the former, according to the services by them respectively performed. If, however, in consequence of any failure to deliver up books or papers which the former had, the latter has to Where one commissioner begins and does not complete service and work is completed by another, how service is apportioned. In what case the latter commissioner gets all the compensation.

proceed to take the list of taxable property, and do all that he would have had to do, in case there had been no previous commissioner that year, then he shall receive all the compensation for the said year.

Compensation of the clerk.

Clerk's compensation for examining books.

Where there is one commissioner.
Where there are two commissioners.

Where there are three commissioners.

100. The court of the county or corporation shall make an allowance to the clerk for his services under this chapter, which shall be paid out of the treasury. Where there is only one commissioner, the allowance shall not exceed fifteen dollars a year. Where there are two, it shall not exceed twenty-five dollars a year. And where there are three, it shall not exceed thirty-five dollars a year.

Redress against erroneous assessment.

No alteration to be made after books are certified by clerk.

101. After the clerk shall have certified the land book, or the book of personal property, no alteration shall be made in either by the commissioner, affecting the taxes of that year.

Any person aggrieved by assessment may apply to county court for relief; commonwealth shall defend application.

102. But any person aggrieved by any entry in either book, or with any assessment of a license tax, may, within one year after the date of the clerk's certificate, where the entry is in either book, and within one year from the assessment of said license tax, apply for relief to the court in which the commissioner gave bond and qualified. The attorney for the commonwealth shall defend the application; and no order made in favor of the applicant shall have any validity unless it be stated on the face thereof that such attorney did so defend it.

Court may exonerate from payment of taxes.

103. If the court be satisfied that the applicant is erroneously charged on such book or so assessed with

any taxes on licenses, it shall certify the facts upon which it grants relief, and shall order that he be exonerated from the payment of so much as is erroneously charged, if not already paid, and if paid, that it be refunded to him.

104. Such order delivered to the sheriff or other officer, shall restrain him from collecting so much as is thus erroneously charged; or if the same has already been collected, shall compel him to refund the money, if such officer has not already paid it into the treasury; and either way it shall be a sufficient voucher to entitle the officer to a credit for so much in his settlement with the auditor of public accounts.

Court's order shall restrain sheriff from collection of taxes erroneously charged. If paid to be refunded, and to be a voucher for officer in his settlement with auditor.

105. If what was so erroneously charged has been paid into the treasury, the order of court shall entitle the claimant to a warrant on the treasury, for the amount thereof, provided application for the same be made to the auditor of public accounts within two years after the date of the clerk's certificate, or such assessment of the license tax.

If taxes erroneously charged were paid into treasury, order of court shall entitle the claimant to warrant on the treasury, if presented within two years.

Supersedeas authorized.

*106. If from the statement of facts or other evidence the auditor of public accounts shall be of opinion that the order of court granting the redress is erroneous, he may advise a supersedeas or appeal to the circuit court of the county or corporation having jurisdiction over the county or corporation in which the order was made. Such appeal or supersedeas shall be granted as a matter of right, and shall be prosecuted by the attorney for the commonwealth for such court. The cir-

The auditor may appeal from the decision of the court granting the order of exoneration.

Method of procedure.

* The courts, in passing upon the errors of commissioners, must state the "facts" upon which they act when relief is granted, so as to enable the commonwealth to judge of the propriety of a supersedeas.

cuit court, upon the facts stated, and upon such other evidence as either party may offer, shall affirm or reverse the order of exoneration, and shall make such order thereupon for the collection of the taxes or otherwise, as such court may consider proper. The appeal or supersedeas shall be tried in a summary way without pleadings in writing. No costs shall be awarded by the court, or paid by the commonwealth, about such appeal or supersedeas, unless the court in its discretion shall give judgment for costs against the commissioner who made the erroneous assessment.

Costs not to be paid by the commonwealth.

Grand jurors to be furnished with list of offences.

*107. It shall be the duty of every commissioner to furnish the attorney for the commonwealth of the county, city or town, a list of every violation of the revenue law committed by persons other than himself, showing the nature and character of each violation. And it shall be the duty of each attorney to deliver such list to the foreman of the grand jury, who shall treat it as having been delivered specially in charge to the grand jury. The said foreman, after the grand jury is discharged, shall return such list to the clerk of the court, to be preserved and filed by him in his office. It shall also be the duty of the circuit courts and the attorneys for the commonwealth in the county and corporation courts specially to charge the grand juries to enquire into all violations of the revenue laws by the commissioners.

Commissioner to furnish the attorney for the commonwealth with list of persons violating the revenue laws.

Attorney to deliver list to the foreman of the grand jury.

List to be delivered to the clerk.

Attorneys for the commonwealth to charge grand juries to enquire into all violations of the revenue laws by the commissioner.

Mode of recovering fines.

†108. Any action or motion for the recovery of any

Proceedings may be instituted by

* This is a new section, intended to prevent the numberless violations of the revenue laws, known to exist, without notice heretofore having been taken of them. The provisions here are comprehensive and cannot fail to secure a faithful execution of the laws.

† The auditor prosecutes all commissioners and clerks in the circuit court of the city of Richmond. All other penalties are recoverable in the county wherein the offence was committed.

fine or forfeiture prescribed by this act, against any commissioner of the revenue or clerk, may be instituted or made by the auditor of public accounts, in the circuit court of the city of Richmond, according to the 2d section of the 43d chapter of the Code.

the auditor in the circuit court of Richmond city against clerks or commissioners for recovery of fines, &c.

*109. All property, not expressly exempted from taxation, or on which a license tax is not paid, shall be ascertained in the manner prescribed in this act, and shall be subject to taxation.

All property not expressly exempted, and on which a license tax is not paid, subject to taxation.

110. Be it further enacted, that all parts of chapter 35 of the Code of Virginia, and the act passed May 24th, 1852, and the acts amendatory thereof, herein referred to, and not hereby amended and re-enacted, are hereby repealed.

Parts of Code repealed.

111. This act shall be in force from its passage.

*This section is thrown in to carry out the spirit of the constitution, declaring as a guide to commissioners that all property, whether named or not, shall be taxed, unless expressly exempt by law.

ACTS 1859-60, CHAP. 2.

An ACT making Regulations concerning Licenses.

Passed March 30, 1860.

Repealing
clauses.

Be it enacted by the general assembly, that so much of the thirty-eighth chapter of the Code of Virginia as has not been amended and re-enacted, and so much thereof as has been amended and re-enacted, and such amendments and re-enactments as have heretofore been made, be and the same are hereby amended and re-enacted so as to read as follows: And all the provisions of the thirty-eighth chapter of the Code of Virginia, and acts amendatory thereof, and not re-enacted by this act, are hereby repealed.

OF TAXES ON LICENSES.

*For what licenses issue.*What business
shall not be pur-
sued without
license.

1. No person shall, without license, keep either an ordinary, house of private entertainment, boarding-house, cook shop, eating-house, or any house not private, but kept for public resort for any purpose, bowling saloon or alley, billiard table, bagatelle* table and such like tables, livery stable or feed store: And no license shall be granted to a free negro† to keep an ordinary or otherwise to sell ardent spirits.

Billiard tables,
&c.
Livery stables,
&c.
Licenses not
granted to free
negroes.
Ardent spirits,
&c.

Merchandise, &c.

Nor shall any person, without license, rectify or distill

* Bagatelle tables are here introduced for the first time as the subject of a license tax.

† Free negroes cannot be licensed to sell ardent spirits.

ardent spirits, or manufacture for sale, or vend porter, ale or beer or drinks of any kind.

Nor shall any person, without license, sell or contract to sell or offer to sell goods, wares and merchandise: What included as merchandise, &c. And herein shall be included books, maps, prints, provisions, agricultural commodities, fruit trees* and shrubberies, the growth, production or manufacture of this state, or any of the United States, or any foreign Sales by samples, cards, &c. country, either by sample, card or otherwise.

Nor shall any person, without license, sell, or offer to sell or barter, patent rights,† patent, specific or quack medicines, wagons, coaches, carriages, barouches, buggies, gigs, carryalls or other vehicles. Patent rights, medicines, carriages, &c.

Nor shall any person, without license, buy for sale or sell for others on commission, or for profit,‡ slaves, Sales on commission, of slaves, horses, &c. horses, asses, mules, cattle, sheep or hogs, or either of them.

Nor shall any person sell, without license, any horses, asses, mules or ice brought into this state to be sold. Horses, &c. brought into the state.

Nor shall any person, without license, act as agent for any foreign insurance company, or act as wood, coal or lumber merchant, merchant tailor, forwarding mer- Insurance companies. Wood and coal merchants, &c.

* The sale of fruit trees and shrubberies produced in other states are prohibited. See section 2, exemption of productions.

† The sale of patent rights is here for the first time introduced, as a subject of license.

‡ Agencies for "profit" in the purchase or sale for others of slaves, horses, asses, mules, cattle, sheep or hogs, or where such purchases and sales are made in a mercantile sense as merchants buy and sell, are prohibited without a license. This provision is not intended, however, as a restraint on such purchases and sales by farmers, graziers and others for their own wants or purposes.

§ The horses and other animals here referred to are such as are brought from other states, and put upon the market in competition with Virginia bred animals.

Attorneys, doc- chant, ship broker, attorney at law, physician, surgeon,
tors and daguer- dentist, daguerreian and such like artists, broker or auc-
reotypists. tioneer.

Nor shall any captain or other person having the command or control of any vessel without license, sell wood by retail from such vessel.

Agents for rent- Nor shall any person, without license, act as agent
ing houses, for renting houses or hiring negroes, or for receiving
hiring negroes, subscriptions* for, or in any manner furnishing news-
for books, &c. papers, books, pamphlets, or other periodicals.

Frame work. Nor shall any person, without license, receive from without this state, any rough or other frame work of any description, to be put together in this state for the purpose of sale.

Shows, circuses and menageries. Exhibitions and theatres. Nor shall any person or company, without a license, exhibit any theatrical performance in a public theatre, or any menagerie, circus or other public show, exhibition or like performance in a theatre or elsewhere.

Refreshments in theatre. Nor shall any person, without a license, sell refreshments in a public theatre.

Rooms for public shows. Nor shall any person, without a license, let any room or rooms for public shows or other exhibitions or performances.

Express business Nor shall any person, without a license, carry on any express business for compensation.

What deemed a †2. A sale made at any place other than that desig-

* Colportage—receiving subscriptions for newspapers, or in any manner furnishing newspapers, books, pamphlets or other periodicals, are prohibited without license. An exception, however, prevails in favor of those printed and published in Virginia.

† This section localizes all business for which a license to sell is required, and destroys the occupation of peddlers, to which no license can issue.

nated in the license, shall, unless specially authorized sale without license. by law, in all cases be held to be a sale without a license.

3. A stable or other place wherein horses are kept What deemed a livery stable. for hire or fed for compensation, shall be construed to be a livery stable within the meaning of this act; but no horse kept therein shall, on that account, be exempted from taxation.

Who exempt from licenses.

4. This act shall not be construed to require a licensed Goods exchanged, not prohibited. merchant or mercantile firm to take out an additional license to enable him or them to barter or exchange goods, wares or merchandise for country produce, and then to sell the same.

Nor to require a license to manufacture cider out of his Cider not prohibited. Distilling grain, &c. produced by manufacturer, not prohibited, unless kept in operation more than four months own fruit; nor to require the owner of a distillery to obtain a license for distilling fruit or for distilling grain produced by himself, unless such distillery so engaged is kept in operation more than four months* in any one year; but if such distillery is suspended within the period of four months, it shall not be resumed in the same year without a license.

Nor to require a license of any person as a keeper of Boarding-houses. a boarding-house, who shall not have more than five persons at the same time boarding with him.

Nor to require a license from any person selling or Carriages, &c. manufactured in this state, ex- offering for sale or barter, coaches, carriages, barouches,

* A distillery may be kept in operation for "four months," if engaged in distilling fruit or grain produced by the distiller, without license; but if kept in operation more than "four months," although engaged in distilling fruit or grain so produced, the tax is to be imposed. If the distillery is kept in operation for any length of time in distilling fruit or grain not so produced, the tax is to be imposed.

empt, if sold by the manufacturer. buggies, gigs, carryalls, or other vehicles manufactured in this state by the seller or person offering to sell.

Wood and lumber, when exempt. Nor to require a license to be obtained by any person to authorize him to sell wood or lumber cut or sawed by himself, unless the same be by retail from some vessel.

License which extends to every county in the state. Nor to require any physician, surgeon, dentist* resident in this state, or attorney at law to pay a license tax in more than one county or city in which he may practice.

Newspapers, &c. published in this state. Nor to require a license to receive subscriptions for or to sell newspapers, books, pamphlets or other periodicals printed and published in this state.

License to sell ardent spirits includes permission to sell porter, ale, &c. Nor to require any person licensed to sell ardent spirits to pay an additional tax as a vendor of porter, ale or beer.

Common crier exempt. Exception. Nor to require a license to be obtained by any person to follow the business of a common crier, except in a town having a population of one thousand inhabitants, or to act as agent in renting houses or hiring negroes, unless the same is done on commission or for profit.

Agents for renting houses, &c. exempt. Exception.

Boarding schools. Nor to require any person who keeps a boarding school to pay a license tax for boarding the students and teachers of such school.

Resident mechanics and artists. Nor to require a license from any resident mechanic or artist for exhibiting any work or production of his

Lecturers. own art or invention, or by any lecturer on a literary or scientific subject, or for a musical concert.

Musical concerts.

Shows, &c. contrary to town. And no license shall be deemed to authorize any

* A dentist obtaining a license in any county may practice any where in the state without an additional license. They are put upon an equality with physicians, surgeons, lawyers, &c.

show, exhibition or performance in a city or town, contrary to the ordinances of the corporation, or to authorize any free negro to take part in such show, exhibition or performance.

ordinances, not licensed.
Free negroes prohibited from taking part in shows.

Nor to require the owner of any stallion or jackass to pay a license tax in more than one county or city in any one year.

Stallions, &c.

Nor shall a license be required to sell articles manufactured by the seller in this state, or provisions, fruit trees, shrubberies and agricultural commodities, the growth and production of this state; or to authorize a planter or farmer to sell salt, iron, steel, tea, sugar, coffee, molasses, spices, gypsum, powder, lead or cotton yarn, when such article is purchased as a return load for his produce or other property taken to market; or to authorize the teachers, officers or trustees of any school or seminary of learning to sell text books to the students thereof, or to authorize a person to use materials in repairing watches or other things, and thereby sell such materials.

Articles manufactured in the state.
Fruit trees, &c.

When salt, iron, &c. may be sold by a farmer without license.

Text books may be sold by teachers.

Materials for repair of watches.

Penalties for a failure to obtain licenses.

5. Any person who shall in any way keep an ordinary without obtaining a license to do so, shall pay a fine of not less than thirty nor more than one hundred dollars. And any person who shall keep a house of private entertainment without license, and any person who shall in any way keep a boarding-house, cook shop, eating-house or any house not private, but kept as a house of public resort for any purpose, bowling saloon or alley, billiard table, livery stable or feed store without a license, shall pay a fine not exceeding one hundred dollars, unless it be such boarding-house or church or other place of public resort as may be exempted by the second section of this act.

Penalties on ordinaries.

Private entertainment.

Boarding-houses, cook shops, &c.

Bowling saloons, billiard tables, &c.

Exceptions.

Ardent spirits.

Ardent spirits,
porter, ale, &c.

6. Any person who shall in any way rectify or distill ardent spirits, or manufacture for sale, or vend porter, ale or beer or drinks of any like kind without a license, where such license is required by this act, shall pay a fine not less than thirty nor more than two hundred dollars.

Sale of goods prohibited.

Goods, wares,
ice, &c.

Books, provi-
sions, fruit trees,
&c.

7. Any person who shall in any way sell or offer to sell any goods, wares, merchandise, ice brought into this state for sale, books, maps, prints, provisions or agricultural commodities, fruit trees or shrubberies, the growth, production or manufacture of this state, or any of the United States, or any foreign country, by sample, card or otherwise, without a license therefor, where such license is required by law, shall pay a fine not less than twenty nor more than five hundred dollars.

Patent rights.

Patent rights,
quack medicines,
carriages, &c.

8. Any person who shall sell or offer to sell or barter any patent rights, patent, specific or quack medicines, coaches, carriages, barouches, buggies, gigs, carryalls or other vehicles, without a license therefor, when such license is required by law, shall pay a fine of not less than twenty nor more than five hundred dollars.

Horses brought into this state.

Horses, mules,
&c.

Slaves, horses,
&c. on commis-
sion.

9. Any person who shall sell or offer to sell horses, asses or mules brought into this state for sale, or who shall buy for sale, or sell or offer to sell for others on commission or for profit, slaves, horses, asses, mules,

cattle, sheep, hogs, or either of them, without a license, where such license is required by law, shall pay a fine of not less than twenty nor more than five hundred dollars.

Merchant tailors.

10. Any person who shall act as agent for any foreign insurance company, or act as wood, coal or lumber merchant, merchant tailor, forwarding merchant, ship broker, attorney at law, physician, surgeon, dentist, daguerreian, and such like artists, broker or auctioneer, without a license therefor, shall pay a fine of not less than twenty nor more than five hundred dollars.

Insurance companies, lumber merchants, merchant tailors, attorneys, artists, auctioneers, &c.

Agents for hiring negroes.

11. Any person who shall act as agent for renting houses or hiring negroes, or for receiving subscriptions for or contracting to furnish or have furnished newspapers, books, pamphlets or other periodicals, without a license therefor, where such license is required by law, shall pay a fine of not less than twenty nor more than five hundred dollars.

Agents for renting houses, &c. Subscriptions to books, &c.

12. Any merchant who shall, from without this state, receive any rough or other frame work of any description, to be put together in this state for the purpose of sale, without a license therefor, where such license is required by law, shall pay a fine of not less than twenty nor more than five hundred dollars.

Frame work put together in this state.

Theatres.

13. Any person or company who shall exhibit any theatrical performance in a public theatre, or any me-

Theatres, shows, &c.

nagerie, circus or other public show, exhibition or like performance in a theatre or elsewhere, without a license therefor, where such license is required by law, shall pay a fine of not less than twenty nor more than five hundred dollars.

Refreshments in a theatre.

Refreshments in
theatre.

14. Any person who shall sell refreshments in a public theatre, without a license therefor, shall pay a fine of not less than twenty nor more than five hundred dollars.

Rooms for shows

15. Any person who shall let any room or rooms for public shows, or other exhibitions or performances, without a license therefor, where a license is required for such show or exhibition, shall pay a fine of not less than twenty nor more than five hundred dollars.

Express business

16. Any person who shall carry on any express business for compensation, without license therefor, shall pay a fine of not less than fifty nor more than five hundred dollars.

Provisions not
specially named.

*17. Any person who shall in any manner violate any of the provisions of this act not herein specially named, shall pay a fine of not less than twenty nor more than five hundred dollars.

What constitutes a license; how granted.

Duty of commis-
sioner to ascer-
tain who should
obtain licenses.

18. Every commissioner of the revenue shall annually ascertain all persons in his district who are engaged in any business, calling or profession, prohibited without

* Penalties prescribed for all violations of the revenue laws not specially named.

license by law, and who ought to obtain such licenses ;
 and it shall also be the duty of every person so engaged Duty of persons engaged in business to apply to commissioner for license.
 or desiring to engage in such business, calling or profession, to apply* to the commissioner of the revenue ; and
 it shall be the duty of such commissioner, in either case, Commissioner to give certificate of amount of tax.
 to deliver to every such person a certificate of the license
 to be obtained, and the amount of tax to be paid by him.
 The commissioner of the revenue shall commence his When to commence assessment of licenses.
 assessments of such licenses as expire on the thirtieth
 day of April, at such time during said month as will
 enable him to complete the assessment, and deliver to
 the sheriff or collector a list thereof, on or before the
 thirtieth day of April. Every certificate to sell shall What certificate to designate.
 designate the store or place of sale. A license to an auc-
 tioneer, in addition to the place named in the license, may
 authorize a sale within the county or corporation wherein
 the license was granted, and to sell for another person,
 at any place such other person is authorized to sell.
 Such certificate shall be produced to the officer to Receipt of collector on the certificate is a license.
 whom the tax is to be paid, and his receipt therefor,
 written on the certificate, shall be deemed a sufficient
 license to the person to whom the same has been
 issued ; except such person shall not by such license be Exceptions.
 authorized to sell, by retail, wine, ardent spirits, or a
 mixture thereof, or to keep an ordinary, house of pri-
 vate entertainment, or bowling saloon ; in which cases,
 such person shall obtain a license in the manner pre-
 scribed by law.

Quack medicines.

19. All licenses granted to sell patent rights, patent, Licenses to expire at the end of
 specific or quack medicines ; licenses granted to brokers,

* The person desiring the license must apply for it. Whether with or without application the commissioner must assess. Licenses issued to merchants, auctioneers and others to sell, must designate the place of sale.

one year from
the day of
granting.

Not granted for
a shorter time
than one year.

Licenses not to
extend beyond
the limits of the
county or cor-
poration for
which granted.

Licenses not
transferrable.

to persons obtaining subscriptions to newspapers, books, pamphlets, or other periodicals, or to sell newspapers, books, pamphlets, or other periodicals, or to sell, contract to sell, or offer to sell, or in any manner furnish any of the above articles, by sample, card or otherwise ; licenses granted to persons to deal in, sell or offer to sell or barter, coaches and other vehicles manufactured without this state, shall expire at the end of one year from the day of granting the same, and shall not be granted for a shorter period than one year, or be subject to any abatement or apportionment of tax, if the privilege be exercised for less than a year, and shall not be construed to extend beyond the limits of the county or corporation for which it was granted. A license granted under this section shall be a personal privilege,* and shall not be assigned or transferred so as to authorize any person to sell, or act under such license, except the person to whom it is granted.

Licenses to expire on the first of January.

Stallions and
jackasses, when
licenses begin
and when expire.

May be trans-
ferred when stal-
lion or jackass is
sold.

Name of stallion
or jackass to be
given in license.

20. The licenses granted to owners of stallions and jackasses may begin at any time of the year, but shall expire on the first day of January next ensuing ; and not less shall be received thereon at any time than one year's tax. The unexpired term of a license so granted, may be transferred to any person to whom the stallion or jackass may have been sold, loaned or hired ; but not otherwise. Every such license shall describe the stallion or jackass by name or otherwise.

Bowling alleys ; when.

Bowling alleys
or billiard tables

21. Licenses granted to keepers of bowling alleys or billiard tables, may commence at any time in the year,

* A license granted under this section is made a personal privilege, and can only be exercised by the person to whom granted.

and terminate at the end of four months from the time of granting the same, or may be for a period of one year. If granted for a period of four months, the tax shall be fifty per centum of the annual tax. County courts may grant licenses to retail ardent spirits on fishing shores, or at any fish wharf in any town or city, for a period not less than three months, at a proportionate rate as for twelve months. Licenses to auctioneers shall not be for less than one year.

may obtain a license for four months.

Amount of tax for four months. Licenses for retail of ardent spirits on fishing shores, &c. may be granted for three months.

Licenses to auctioneers shall be for one year.

*Licenses which expire 30th April.**

22. All licenses other than those mentioned in the next three preceding sections (except licenses for public theatres and shows, and other exhibitions, which shall be for the time herein after specified), shall expire on the thirtieth of April. In all those cases wherein it is necessary for the county or corporation courts to do any act to authorize the license, such act may be performed in anticipation, at the March or April court next preceding the first day of May, on which such license is to take effect. Where such license is not for the full period of one year, such courts at any time may perform such acts. If any license provided for in this section be granted for a less term than one year, the tax thereon shall bear such proportion to the whole annual tax as the space of time between the granting of the same and the thirtieth of April bears to a full year. A person obtaining any such license may transfer the unexpired term thereof, by leave of the court of the county or corporation where such license was obtained, upon a certificate of all such things as would be required, if it

Licenses to expire on the thirtieth of April. Exceptions.

Action of courts may be obtained in anticipation.

License less than a year; how tax proportioned.

License may be transferred by leave of court; when.

* Licenses granted under this section expire on the 30th day of April: and if permission to sell ardent spirits be desired, applications may be made in "anticipation" at March or April court. The commissioner may commence his assessments in "anticipation," so as to furnish every assessment during the month of April.

When it may be transferred without leave of court.

When business is commenced without license, what tax is to be assessed.

were an application to grant a license; and in other cases, by procuring from the commissioner of the revenue a certificate on such license, showing to whom it was transferred. Any person commencing any trade or business for which a license is required, before making application for and obtaining such license from the commissioner of the revenue, shall be assessed with four times the amount of tax otherwise imposed on such license.

How commissioner obtains a license.

How license granted to commissioner.

23. Where a commissioner of the revenue desires to obtain a license, which, in the case of another person applying therefor, would be granted by himself, the tax may be paid without such certificate; but the receipt for the tax shall be produced to, and the license shall be granted by the court of the county or corporation.

Appeals authorized.

24. If the person desiring a license be dissatisfied with the valuation of the commissioner, he may appeal to the court of the county or corporation, whose judgment shall be final.

To whom tax is to be paid.

Tax on license, to whom payable

25. The tax on every license issued under this act shall, unless otherwise provided, be paid to the officer of the county or corporation wherein the license is issued, who, at the time of payment, may be authorized to collect the taxes assessed for that year, in such county or corporation, under the thirty-fifth chapter of the Code.

Tax on ordinaries, how determined.

26. The tax on a license to keep an ordinary shall be determined by the yearly value of such ordinary, if it be actually rented or leased, and the commissioner may require the proprietor or tenant to declare on oath

what is the amount of such rent. If either of them refuse to state the same when so required, he shall forfeit three hundred dollars.

27. If the premises are in the occupation of the proprietor himself, the commissioner, after making a comparison of the same (where that is in his power) with other like premises actually rented, shall estimate the yearly value, to the best of his judgment. In doing this, he shall take into his consideration not only the house itself, but all the out-houses, gardens, stables, lots, baths, pools and watering places appurtenant thereto, with all other things that impart value to the same, including furniture, and excluding the contiguous farm or farm-houses.

If occupied by proprietor, how ascertained.

What included in estimate.

Merchants.

28. Any person desirous of obtaining a license as a merchant, shall pay a tax for each store or place at which he may desire to sell.

Merchant to pay a tax on each store.

29. A merchant or mercantile firm commencing business shall pay for the first year a specific tax, and if the license under which business is commenced be for a part of a year, shall pay for the succeeding year a specific tax. No change in the name of a firm, or the taking of a new partner, or the withdrawal of one or more of the firm, shall be considered as commencing business; but if any one or more of the parties remain in the firm, the business shall be regarded as continuing.

Beginners to pay a specific tax.

Change in the style of the firm not considered as commencing business.

30. After the business has been carried on under a license for a year, if the said business be continued, the tax for the succeeding year shall be in proportion to the merchant's sales for the preceding year, of such

When tax is in proportion to sales.

Merchant to
render a state-
ment on oath of
amount of sales.

goods, wares, merchandise or articles as by law a person is prohibited from selling without a license; of which sales the merchant shall render a statement on oath to the commissioner, and shall also answer such interrogatories on oath as may be propounded to him by the commissioner of the revenue, under the direction of the auditor of public accounts.

*Exemptions.**

Goods imported
directly, and
articles manufac-
tured in this state
deducted from
gross amount of
sales.

31. The sale of all goods imported directly into this state from foreign countries by the importer, and all agricultural productions and goods manufactured in this state by the producer or manufacturer, shall be deducted by such commissioner from the gross sales of the previous year, and the residue shall be the taxable sales. But the merchant may appeal to the court of the county or corporation, and in such case, the amount of the annual sales shall be fixed by the court.

Merchant may
appeal from the
estimate of com-
missioner.

Merchant's additional license to sell ardent spirits.

License to mer-
chant to sell ar-
dent spirits, how
obtained.

32. If the merchant shall desire his license to include permission to sell by retail, wine, ardent spirits, or a mixture thereof, ale, beer or porter, he shall pay the additional tax prescribed for this privilege, and obtain from the court of the county or corporation in which his store or place of sale is situated, a certificate that he is a person of sobriety and good character, and that the court sees no objection to such permission being granted. Such certificate of the court shall not be granted, except at the March or April term, or at some term when all the justices have been summoned to consider such ap-

Certificate of
court, what to
state; when
granted.

* Goods imported in bond, or from foreign countries into a custom-house out of Virginia, are not within the exemption here given. To claim the exemption, the merchant must have imported the goods "directly" into Virginia without touching at any custom-house out of it.

plication, or when a majority of the justices of such county or corporation shall be present, or when the court shall be composed of the justices who composed the court at the March or April term. If such certificate be applied for and refused, the refusal shall be entered of record, and afterwards such certificate shall not be granted to the applicant, unless by a court composed of the same justices to whom the first application was made, or a majority of the acting justices of the county or corporation. But the court shall not consider the application, until a receipt for the tax is produced before such court. And if such certificate of the commissioner shall include the tax required to be paid for the privilege of selling wine, ardent spirits, or a mixture thereof, or of keeping an ordinary, house of private entertainment, or a bowling saloon, and the court shall refuse to grant such privilege, the sheriff or collector shall, upon the production to him of the certificate of the clerk of such court to that effect, refund to such person so much as was paid to him for the privilege so refused, and shall take his receipt therefor on such certificate. And the auditor of public accounts shall, on his settlement with such sheriff or collector, allow a credit for the same, upon the production of such certificate, so receipted.

If certificate is refused, what done.

Officer's receipt for tax to accompany application for license.

If refused, sheriff to refund the tax.

Auditor to credit sheriff by amount refunded.

33. Such certificate shall be produced, with the receipt for the tax, to the commissioner, who shall grant to the merchant such license as he may be entitled to. The license shall, in addition to what is prescribed by the preceding section, state the fact of such certificate and the situation of the store or place of sale. If the person applying for such license asks that it shall be to him as a commission merchant, the commissioner shall so express on its face.

Commissioner to grant license.

What to be stated in license.

When license altered.

Merchant removing may have his license altered.

*34. When a person who has obtained a license or paid a tax for a license to sell at one store or place, removes to another store or place and wishes his license altered accordingly, the court of the county or corporation may authorize the commissioner to make such alteration.

No license to authorize sale of goods on board of vessel.

Penalty for making such sales.

35. No license shall authorize any person to sell any goods, wares, merchandise or other articles on board of any vessel within the tide waters of this state. If such sale be made, the offender shall forfeit one hundred dollars, one-half to be paid to informer.

Penalties for selling ardent spirits.

Penalty for selling ardent spirits, &c. without license.

36. If any person shall, without paying such tax and obtaining such certificate as is required by this act, sell by retail, wine, ardent spirits, or a mixture thereof, ale, porter, beer or such like drinks, he shall forfeit sixty dollars; and if any person sell by retail, wine, ardent spirits, or a mixture thereof, ale, porter or beer, or such like drinks, to be drunk in or at the store or other place of sale, he shall, unless he be licensed to keep an ordinary at such place, forfeit sixty dollars. When an ordinary license is granted, the person shall have the privilege of selling by retail.

Ordinary license includes permission to sell ardent spirits, &c. by retail.

Revocation of license.

Court may revoke license.

37. Upon the motion of any inhabitant of the county or corporation, after ten days' notice to any merchant

* It would not be competent for the court to authorize the commissioner to transfer a license from one county or corporation to another. If such removal is made a new license must be taken out.

who has obtained such certificate, the court which granted it, if it see cause to do so, may revoke the same. And if, after such revocation, such merchant shall sell by retail, wine, ardent spirits, or any mixture thereof, ale, porter, beer, or drinks of like kind, he shall, for every offence, forfeit fifty dollars.

Penalty for selling after revocation of license.

*38. The two preceding sections shall not be construed to prohibit any person from selling, by retail, liquors actually made from the products of his estate, or distilled by him, or those in his employment, at the place of manufacture, when such liquors are not drunk in or at the place of sale: provided, however, that the same shall not be sold, contracted to be sold, or offered for sale by sample or otherwise, at any other place than that at which it was manufactured, or on the same plantation.

Sale of liquor by the manufacturer not prohibited.

Exceptions.

Auctioneers.†

39. No person shall, without being licensed, whose license is required by law, as an auctioneer for any county or corporation, sell therein, at auction, any real estate, goods, wares, merchandise, or other articles, except in the following cases, to wit: the estate of a decedent may be sold by his representative, according to law or the provisions of the will; property conveyed by deed of trust, or decreed or ordered to be sold by a court, may be sold according to the deed, decree or order; any person may sell agricultural products of this state; and an officer may sell property distrained

No person to sell as an auctioneer without license.

Exceptions.

* The sales of liquors by the manufacturer is localized, and required to be at the place of manufacture or on the same plantation, and cannot be sold or offered for sale elsewhere by sample or otherwise. Any merchant selling such liquors for the manufacturer must obtain a license.

† Auctioneers are required by this section to take out a license in every county in which they sell. The license is not as heretofore required only in towns of 3,000 inhabitants.

Auctioneer prohibited from selling goods, &c. brought into the state, unless the owner has obtained license for one year to sell such goods.

by him under execution or other legal process. Nor shall any auctioneer be allowed to sell goods, wares, merchandise or other articles brought into this state, in any county, town or corporation, without the owner thereof has first obtained a license for one year to sell such goods, wares, merchandise or other articles.

Penalty.

40. Any person violating the preceding section, shall pay a fine of not less than thirty nor more than one thousand dollars.

Auctioneers to make statement of sales on oath.

41. Auctioneers shall give to the commissioners of the revenue like statements of their sales on oath, and answer like interrogatories as merchants may be required by law to give.

Insurance agents.

Insurance companies to obtain license.

42. No agent or subagent of any insurance company or office, incorporated or authorized by another state, or existing in or claiming to exist in another state or foreign country, shall establish or keep any office, or transact the business of his agency within this state, without a license. Any person violating this section shall pay a fine of not less than forty nor more than one thousand dollars.

Penalty for failure.

Brokers.

Penalty against brokers for selling without license.

43. No person shall, without obtaining a license as a broker, buy, exchange or sell on commission, or for any profit or reward, or as a part of his regular employment or business, certificates of debt of any state, or of the United States, or stock of any state, or in any bank or incorporated company, or the notes of any bank, or any gold or silver coin, or any bill of exchange, draft or note. Any person violating this section shall forfeit two thousand dollars.

Dentists.

44. Any person who shall, without being licensed as a dentist, in this state, practice therein the art of dentistry, shall forfeit thirty dollars.

Penalty against dentists.

Stallions.

45. Any person who, without a license, shall permit any stallion or jackass belonging to him or under his control, to cover mares for compensation, shall forfeit fifty dollars. But the person obtaining such license may let the horse or ass to mares in any part of the state, during the season for which the license has been obtained.

Penalty against owners of stallions and jackasses.

Theatres; how taxed.

46. There shall be a tax per week on theatrical performances in a public theatre; a tax per year on each place of sale of refreshments in a public theatre, during such performances; a tax per year on the proprietor or occupier of any public room fitted for public exhibitions, who permits the same to be used for such purposes; a tax on any public show, exhibition or performance elsewhere, for each time of performance.

Tax on theatrical performances.

On exhibition rooms.

On shows, exhibitions, &c.

A list for the sheriff and auditor.

47. After the commissioner of the revenue shall have assessed all persons required by law to obtain licenses, he shall make a fair classified list thereof, as far as he may have progressed with the same, at intervals not exceeding fifteen days, and deliver such lists to the sheriff or other collector of the revenue, for his guide in collecting the taxes imposed by law on such licenses. He

Lists of licenses to be made by commissioner, how made and at what intervals; how disposed of.

At what times
lists for auditor
and clerk to be
returned.

shall return to the auditor of public accounts and to the clerk of the court of the county or corporation, a list of all such licenses; that is to say, a list of such as are granted on or after the first day of September and before the first day of May following, shall be returned on or before the tenth day of the said month of May; and a list of such as are granted on or after the first day of May and before the first day of September following, shall be returned immediately after the first day of September. Such lists shall specify the date of each

What to specify
in lists.

license, for what it was granted, the name of the person to whom granted, the amount of the tax, to whom paid, and the data upon which the tax was assessed. For every certificate delivered by a commissioner to a person desiring, or who ought to obtain a license, the commissioner shall be entitled to a fee of fifty cents for each license, unless such license be refused by the court; which fees shall be paid to him out of the treasury, on the warrant of the auditor of public accounts; and the same shall be included and added to the amount of tax assessed upon such license, and be collected and paid into the treasury in the same manner and at the same time such taxes are payable. He shall receive a fee of fifty cents for a transfer of a license, to be paid by the person obtaining such transfer.

Fees of commis-
sioner.

By whom paid.

Fee for transfer;
by whom paid.

License returns; evidence.

Penalty for fail-
ure to return
lists.

48. If any commissioner fail to return any such list of licenses at the times and in the manner before directed, without a reasonable excuse therefor, no warrant shall be issued by the auditor of public accounts in his favor, until such lists are returned; and he shall, moreover, pay a fine of one hundred dollars. If no licenses have been issued or obtained, he shall return the fact at the times required for a return of a list of licenses; and for his failure so to do, he shall incur the same penalties

Penalty for fail-
ure to report
where no li-
censes have been
issued.

as are imposed for his failure to return a list of licenses granted.

49. Any such list signed by the commissioner, wherein shall be stated the amount of tax paid for any license, and to whom paid, shall, in any motion or proceeding against any delinquent sheriff or collector, be evidence to charge him therewith.

List of license evidence against delinquent sheriff.

Sheriff or collectors; power to distrain.

50. The sheriff or other collector shall be authorized and required to distrain immediately for the amount with which any person may have been assessed by the commissioner upon any license under the provisions of this act; and to sell, upon ten days' notice, so much of such person's property subject to distress as may be necessary to pay the taxes so assessed.

Sheriff authorized to distrain for license tax.

51. No sheriff or collector shall receive from any person a license tax unless he has first received the certificate of the commissioner showing the amount with which such person has been assessed, or the list required to be furnished to such sheriff or collector by the commissioner.

Sheriff not to receive license tax until the certificate of the commissioner is produced.

Taxes; when payable.

52. Every sheriff or collector shall account for and pay into the treasury the taxes assessed on licenses at the following times: The taxes assessed on or after the first day of September, and before the first day of May following, shall be accounted for and paid on or before the thirtieth* day of the said month of May; and the taxes assessed on or after the first day of May, and be-

Times at which the sheriff shall pay into the treasury the license taxes.

* The taxes are to be paid on the 30th of May, instead of the 20th of May, as heretofore.

fore the first day of September following, shall be accounted for and paid at the same time that other taxes collected by such sheriff or collector are required by law to be accounted for and paid.

Judgment without notice.

Proceedings to be instituted by auditor against sheriff for failure to pay taxes at the time required by law.

Clerk shall enter up judgment for amount and damages.

*53. If the taxes required to be paid on or before the thirtieth of May be not then paid, the auditor of public accounts shall within three months after such failure, file in the clerk's office of the circuit court in the city of Richmond, with the clerk thereof, an accurate account of the amount with which any such sheriff or collector may be chargeable on account of such taxes; and thereupon such clerk shall enter up a judgment against such sheriff or collector and his securities for the amount wherewith he is so chargeable, with lawful interest thereon from the time of such failure until payment thereof, and fifteen per centum damages in addition thereto; which judgment shall have the same validity and be subject in all respects to the like proceedings thereupon as if it had been rendered by the court.

Rehearing authorized.

Right of appeal within six months.

Judgment not impaired by death of any obligor of the bond.

54. But any person aggrieved by such judgment may apply to the circuit court of the city of Richmond within six months thereafter, to set aside said judgment and try said cause, which such court may do upon such terms as it may prescribe. Such judgment, if entered against any obligor of the bond of such sheriff or collector who is dead at the time of the entry of such judgment, shall not be impaired thereby; and as to the party who may have died, it shall operate to all intents

* This section conforms the proceedings to obtain a judgment to that for taxes on property.

and purposes as a judgment against the personal representative of such deceased party.

Delinquents ; how returned.

55. When a sheriff or other collecting officer is unable to find property out of which to make the taxes imposed upon persons who may have been assessed with a license, such sheriff or collector may return such persons as insolvents, subject to all the laws in relation to uncollected taxes.

When sheriff may return license tax insolvent.

Commissions to sheriffs and collectors.

56. Every sheriff or person receiving taxes or licenses under this chapter shall be allowed a commission of two per cent. for their collection on the first five thousand dollars, and one per cent. upon any excess over that sum ; and if he shall punctually pay the same into the treasury within the time prescribed by law, he shall be allowed an additional compensation of two per centum on the first five thousand dollars, and of one per centum on any excess over that sum.

Sheriffs' commissions for collecting license taxes.

*Penalties, how recoverable.**

57. The penalties prescribed in this act, except those recoverable in the circuit court of the city of Richmond, by existing laws, shall be recoverable by action of debt, presentment, indictment or information.

How penalties recoverable.

58. Such action of debt may be brought in the name of the commonwealth, either in the county or corporation wherein the offence was committed, or wherein the

Where action of debt may be brought.

* The 57th, 58th, 59th and 60th sections contain new and comprehensive provisions for the recovery of fines, penalties and forfeitures for violations of the revenue laws.

offender resides, and such action may be either in the county or corporation court or in the circuit court of the county or corporation.

Bail to be required.
Defendant may be discharged upon giving bond with approved security.

Conditions of bond.

With whom filed

59. In the action of debt, bail shall be required as a matter of right, and the defendant arrested under a capias hereby authorized, may, at any time pending the case, give bond with sufficient security to the officer making the arrest, who may thereupon be discharged. Such bond shall be conditioned for the appearance of the party to answer the action and to abide by and satisfy the judgment of the court; and shall be returned by such officer to the clerk of the court from which the capias issued, to be filed and preserved by the clerk of such court. If deemed necessary, an attachment may also be issued as now authorized in other cases, except that an affidavit and a bond shall not be required of the commonwealth or her agents in the proceedings hereby authorized.

Duties of commonwealth's attorneys.

Duty of the attorney for the commonwealth to institute prosecutions or actions upon the application of any revenue officer.

60. In addition to the general duties of the attorney for the commonwealth in each county or corporation, he shall, upon his own motion, or upon the application of any revenue officer or of any conservator of the peace, institute prosecutions or actions upon all the offences herein prescribed.

61. This act shall be in force from its passage.

ACTS 1859-60, CHAP. 3.

An ACT imposing Taxes for the Support of Government.

Passed March 31, 1860.

1. Be it enacted by the general assembly, that the taxes on the persons and subjects required by law to be listed or assessed, shall be yearly as follows :

Taxes on lands and lots.

On tracts of lands and lots, with the improvements Tax on land. thereon, not exempt from taxation, forty cents on every hundred dollars value thereof; and herein shall be included all tracts of lands and lots, with the improvements thereon, not exempt from taxation, of incorporated joint stock companies, savings institutions and insurance companies. What included therein.

On personal property.

2. On all the personal property, moneys and credits On personal property, moneys and credits. required by law to be listed, and not exempt from taxation, except slaves, forty cents on every hundred dollars value thereof; and herein shall be included all the capital invested or used in any manufacturing business except gas companies, where the assessment shall be on the value of such property invested or employed in any trade or business, except agricultural, for which no license is required, and all the personal property and moneys of incorporated joint stock companies, except the moneys and personal property that constitute part of the capital of the banks, and except the moneys and per- What included therein, and what exempted.

sonal property of savings institutions and insurance companies which have declared dividends within one year preceding the first day of February; and the words "moneys and credits" shall be construed to include all moneys or credits owned by any resident in this state, whether such moneys or credits are within or without the state.

On slaves.

- On slaves over 12 years of age. 3. On every slave over twelve years of age, whether exempted from county levy in consequence of bodily infirmity or not, one dollar and twenty cents; and herein shall be included all slaves, over twelve years of age, owned or hired by any company, institution or person whatsoever.
- Who Included.

*On free negroes.**

- On free negroes. 4. On every male free negro who has attained the age of twenty-one years, eighty cents.

White males.

- On white males. 5. On every white male inhabitant who has attained the age of twenty-one years, eighty cents.

On public bonds.

- On interest on public bonds. 6. On the interest or profit which may have been received by any person, or converted into principal so as to become an interest-bearing subject, or otherwise appropriated, within the year next preceding the first day of February of each year, arising from bonds and certificates of debt of this or any other state or country, or

*See ch. 55 (extracted from Acts 1852-3), published in this pamphlet.

of any corporation created by this or any other state, whether the stock of such company be exempt from taxation or not, six and two-thirds per centum.

Dividends.

7. On the dividends declared within the year preceding the first day of February, by savings institutions and insurance companies, to be paid by such institutions and companies into the treasury respectively, six and two-thirds per centum.

On dividends of savings banks and insurance companies.

On income.

8. On the income or fees received during the year ending the first day of February of each year, in consideration of the discharge of any office or employment in the service of the state, or in consideration of the discharge of any office or employment in the service of any corporation, or in the service of any company, firm or person, except where the service is that of a minister of the gospel, one-half of one per centum if the same be not more than two hundred and fifty dollars; one per centum if the same be more than two hundred and fifty dollars and not more than five hundred dollars; one and a half per centum if the same be more than five hundred dollars and not more than a thousand dollars; and two per centum if the same be over one thousand dollars. The tax payable under this section by an officer of government receiving a salary out of the treasury, shall be deducted at the time the salary is audited and paid.

On income or fees.

Exception.

Taxes of officers of government, how paid.

9. On the yearly rent or annual value of toll bridges and ferries other than those toll bridges and ferries exempt by their charter from taxation, six per centum.

On toll bridges and ferries.

ON LICENSES.

Ordinaries.

10. The taxes on licenses shall be as follows :

Ordinaries and
public entertain-
ment.

On a license to keep an ordinary or house of public entertainment, forty dollars; and if the yearly value of such house and furniture exceeds one hundred dollars and is less than two hundred dollars, the tax shall be fifty dollars; and if the yearly value thereof exceeds two hundred dollars, there shall be added to the last mentioned sum fifteen per cent. on so much thereof as exceeds two hundred dollars.

Private entertainment.

Private enter-
tainment and
boarding-houses.

11. On a license to keep a house of private entertainment or a private boarding-house, or any other house not private, but kept for public resort for any purpose, five dollars; and if the yearly value of such house and furniture exceed fifty dollars and is less than one hundred dollars, the tax shall be ten dollars. If the yearly value thereof exceed one hundred dollars, there shall be added to the last mentioned sum ten per cent. on so much thereof as exceeds one hundred dollars. But no house shall be deemed a private boarding-house with less than five boarders.

Cook shops and
eating-houses.

12. On every license to keep a cook shop or eating-house, or any house not private, but kept for public resort for any purpose, fifteen dollars; and in addition thereto, fifteen per cent. on so much of the yearly value thereof as exceeds one hundred dollars.

Bowling alleys.

13. On every license permitting a bowling alley or saloon to be kept for a year, fifty dollars: provided, that where there is more than one such alley kept in any one room, fifteen dollars each shall be charged for the excess over one. Bowling alleys or saloons.

Billiard tables.

14. And on every license permitting a billiard table to be kept for a year, one hundred dollars: provided, that where there is more than one such table kept in any one room, fifty dollars each shall be charged for the excess over one table: provided, that if such billiard table, bowling alley or saloon, are not kept open more than four months in any one year, the taxes thereon shall only be one-half of these rates. Billiard tables. When for not more than four months.

Bagatelle tables.

15. On every license permitting a bagatelle or other like table to be kept for one year or any less time, twenty dollars for the first, and if more than one, ten dollars for the second, and five dollars for each additional table kept in the same house. Bagatelle tables.

Livery stables.

16. On every license to a keeper of a livery stable, one dollar for each stall thereof; and herein shall be included as stalls, such space as may be necessary for a horse to stand, and in which a horse is or may be kept. Livery stables.

Distilleries.

17. On every license to the proprietor of a distillery, Distilleries.

if a beginner, the tax shall be twenty dollars; and if said distillery is to be kept in operation as much as four months in the year, the tax shall be thirty dollars; if for six months, forty dollars; if for nine months, sixty dollars; if for a longer time than nine months, one hundred dollars; and if such distillery has been kept in operation as much as four months in the year next preceding the time of obtaining such license, the proprietor thereof shall pay, in addition to the tax imposed on beginners, one-half of one per centum on the amount of sales of such distillery for the twelve months next preceding the time of obtaining such license.

Additional tax
on sales.

Merchants.

18. On every license to a merchant or mercantile firm, where a specific tax is to be paid, sixty dollars: provided, that if the capital employed by said merchant or firm be shown by affidavit to be less than five hundred dollars, the tax to be paid shall be ten dollars; but this proviso shall not authorize any such person to sell wine, ardent spirits, or a mixture thereof; and when the tax is in proportion to the sales, if the taxable sales shall be under one thousand and one dollars, the tax shall be twenty dollars; if one thousand and one and under fifteen hundred dollars, twenty-four dollars; if fifteen hundred dollars and under twenty-five hundred dollars, thirty-two dollars; if twenty-five hundred dollars and under five thousand dollars, forty-eight dollars; if five thousand dollars and under ten thousand dollars, seventy-six dollars; if ten thousand and under fifteen thousand dollars, ninety-six dollars; if fifteen thousand dollars and under twenty thousand dollars, one hundred and twelve dollars; if twenty thousand dollars and under thirty thousand dollars, one hundred and forty dollars; if thirty thousand dollars and under fifty thousand dollars, two hundred and eight dollars;

Merchants'
specific tax.

When propor-
tioned to sales.

and if over fifty thousand dollars, ten dollars for every ten thousand dollars excess over the said sum of fifty thousand dollars.

Merchant's permission to sell ardent spirits.

19. And in every case in which the license to a merchant or mercantile firm includes permission to sell wine, ardent spirits or a mixture thereof, porter, ale or beer, by wholesale and retail, or by retail only, if such merchant or firm (commencing business for the first time) sell by wholesale and retail, an additional tax of one hundred dollars; and if by retail only, forty dollars; and if such license be to a merchant or mercantile firm to continue the privilege of selling wine, ardent spirits or a mixture thereof, porter, ale or beer, if by wholesale, or by wholesale and retail, or by retail only, the tax shall be one per centum on the amount of such sales for the year next preceding the time of obtaining said license, in addition to the specific tax imposed on beginners; but said sales shall not be estimated in ascertaining the amount of a merchant's license.

Liquor license on beginners.

To continue business.

Merchant tailor.

20. Merchant tailors, lumber merchants, dealers in coal, ice or wood, shall obtain licenses as merchants, and be assessed and taxed thereon as other merchants are by the preceding sections of this act, and shall be subject to like penalties for conducting such business without a merchant's license.

Other trades and callings taxed as merchants.

Commission merchant.

21. The tax on every license to a commission merchant, forwarding merchant, tobacco auctioneer or ship broker, shall be forty dollars, if commencing business;

Commission merchants, tobacco auctioneers and ship brokers.

and if to continue such business after the same has been carried on for a year, the tax on such license shall be two per centum on the amount of commissions received ; and this tax shall be in addition to such tax as may be imposed on a license to such merchant or firm, to sell any goods, wares or merchandise.

Auctioneers.

Auctioneers' scale of license in towns.

22. On every license to an auctioneer or vendue master commencing business, twenty-five dollars ; and if the place of business be in a town containing a population of three thousand inhabitants, thirty-two dollars ; if the population exceeds three thousand, an additional tax of fifteen dollars for every thousand persons above that number, and at that rate for any fractional excess less than one thousand ; but said specific tax shall in no case exceed three hundred and fifty dollars. On every license to an auctioneer who deals exclusively in real estate, two hundred and fifty dollars, and he shall have the right to sell real estate at auction or otherwise. On

Real estate auctioneers.

When charged a per centage on sales.

every license to an auctioneer or vendue master to continue the business after the same has been carried on for a year, one per centum on the amount of taxable sales of such auctioneer or vendue master, but in no case shall the tax on such sales exceed one thousand dollars : provided the tax to be paid by auctioneers for the sales of molasses and sugar, shall in no case exceed five hundred dollars for such sales ; but the tax on sales of other articles shall not be affected by this provision.

Sample merchants.

Selling goods by sample.

*23. On every license to a person selling goods by

* A merchant who has obtained a license to sell goods by sample at his store-house or place of trade, has no right, under such license, to permit any other person, not so licensed, under cover of such license, to make

sample, card or otherwise, except at some store-house or place of trade, two hundred dollars; but such sales made at such store-house shall subject the person doing business at such store-house to the tax required to be paid by a merchant.

Patent rights.

24. On every license to sell or barter patent rights, Patent rights and quack medicines. twenty-five dollars; patent, specific or quack medicines, if by wholesale, fifty dollars; if by retail only, twenty-five dollars, unless he have a merchant's license.

Book agents.

25. On every license to a person obtaining subscriptions to books, Book agents and print sellers. twenty-five dollars; to a person selling maps, prints, pamphlets or periodicals, or obtaining subscriptions therefor, or in any manner furnishing the same, twenty-five dollars: provided, if the person obtaining If non residents. such license has not been a resident of the state one year, the tax shall in each case be one hundred dollars.

Agents for renting houses and hiring negroes.

26. On every license to a person engaged as agent Renting houses. for the renting of houses, twenty-five dollars.

27. On every license to a person engaged as agent Hiring negroes. for the hiring of negroes, fifty dollars.

Stallions.

28. On every license to the owner of a jackass or Jackasses and stallions. stallion, for services of which the compensation is re-

sales by sample at such store-house. If a merchant permit such sales, it is a plain evasion of the revenue laws; and this section was framed with a view of imposing the tax on such merchant, in addition to his former tax.

ceived, twice the amount of such compensation, when the charge is for such service by the season ; and where such services are for less than a season, then twice what a commissioner may judge to be a reasonable charge therefor. The tax, however, in no case to be less than ten dollars.

Theatrical performances.

Theatres.

29. On every license permitting theatrical performances in a public theatre or elsewhere, six dollars each week of such performances, notwithstanding the owner of the place of exhibition shall have paid the license tax above required.

Refreshments in theatres.

30. On every license permitting the sale of refreshments in a theatre during such performances, one hundred dollars for each place of sale ; and no abatement shall be made, if the privilege be exercised for a period of less than one year.

Exhibition rooms.

31. On every license permitting the proprietor or occupier of any public room fitted for public exhibitions, to use the same for such purposes for a year, twenty dollars, if such room be in a town of less than five thousand inhabitants ; forty dollars, if in a town of more than five thousand and less than ten thousand inhabitants, and sixty dollars in all other towns ; and in addition to these rates, there shall be added to said license tax forty cents on every hundred dollars value of such rooms or buildings : provided such rooms and buildings are not otherwise assessed.

Shows.

32. On every license permitting any public show, exhibition or performance, if in a corporate town, or within five miles thereof, for each time of performance, ten dollars ; if elsewhere, five dollars ; and for every

exhibition of a circus, if within a corporate town, or Circuses. within five miles thereof, forty dollars; if elsewhere, twenty dollars; and for every exhibition of a menagerie, Menageries. if within a corporate town, or five miles thereof, forty dollars; if elsewhere, twenty dollars. All such shows, exhibitions and performances, whether under the same canvas or not, shall be construed to require separate licenses therefor; and upon any such shows, exhibitions and performances being concluded, so that an additional fee for admission be charged, the same shall be construed to require an additional license therefor.

Porter, ale and beer.

33. On every license to sell by retail porter, ale or Malt liquors. beer, twenty dollars; and if they continue for more than one year, an additional tax of one per centum on the amount of taxable sales.

Stock brokers.

34. On every license to a broker who deals exclu- Stock brokers. sively in stocks, two hundred and fifty dollars; and he shall thereupon have the right to sell the said stocks at auction or otherwise.

Bank note brokers.

35. On every license to a broker, five hundred dol- Brokers. lars; if located in a city with a population exceeding fifteen thousand of white population, seven hundred and fifty dollars.

Insurance companies.

36. On every license to an agent or subagent of any Insurance com-
panies. insurance company not chartered by this state, twenty-

five dollars ; and in addition thereto, a tax of one-half of one per cent. on the whole amount of premiums received and assessments collected by such agent or sub-agent or company within the state, as prescribed by law.

Physicians and others.

Physicians, dentists and lawyers.

37. On every license to a physician, surgeon or dentist, five dollars ; and on every license to an attorney at law, five dollars. If the yearly income derived from the practice of any such callings or professions during the year next preceding the time of obtaining such license, shall exceed four hundred dollars, there shall be an additional tax on the excess of one per centum ; and this income shall be included in the license tax.

Daguerreian artists.

Daguerreian artists.

38. On every license to the owner of a daguerreian or such like gallery, by whatsoever name it may be known or called, if in a city or incorporated town of less than five thousand inhabitants, twenty dollars ; if more than five thousand inhabitants, forty dollars ; if elsewhere, ten dollars ; and if the yearly income derived from the practice of said art exceed five hundred dollars in any county, city or town, an additional tax of two per centum on such excess for the year next preceding the time of obtaining such license ; and such tax shall be imposed whether an artist perform in a gallery or not.

Express companies.

Express companies required to make semiannual returns to auditor of receipts.

39. On every license to a person or company carrying on any express business for compensation, fifty dollars, and in addition thereto, every such company shall make a return to the auditor of public accounts, on the

15th day of January and July in each year of the total receipts of such company, on account of its operations within the state of Virginia within the six months preceding the first day of January and July in each year. Such returns shall be verified by the oaths of the agent Returns to be on oath. and chief officers of such company, at its principal office or offices in this state, in the manner and according to the forms prescribed by the said auditor, whether collected within or without the state. Such express Tax on receipts. company shall pay on the total receipts so reported, a tax of one-half of one per centum, except for the trans- Exception. portation of bank notes, for which the tax shall be one-fourth of one per cent. upon the amount of bank notes transported over one hundred miles at any one time, except notes sent by the banks and sheriffs of the commonwealth, and for failure to make such report or pay Penalty for failure to pay or report. such tax, a penalty of six hundred dollars shall be imposed on the company so failing, to be recovered as other penalties are: provided, however, that no license Not to do the business of a broker. to carry on the express business shall authorize any such company to do the business of a broker. Such license shall give the privilege throughout the state.

40. No express company shall pay any tax on bank When tax on transportation of bank notes paid. notes forwarded for any resident citizen of this commonwealth, unless he be a broker dealing in bank notes.

Bank dividends.

41. On the dividends declared by any bank incor- Bank dividends. porated by this state, the tax shall be six and two-thirds per centum upon the amount thereof, to be paid into the treasury by the bank. If the dividend be that of a bank incorporated elsewhere, the tax shall be six and two-thirds per centum upon the amount thereof, to be assessed and collected as other taxes.

On suits.

Original suits. 42. When any original suit, attachment or other action is commenced in a circuit, county or corporation court, there shall be a tax of one dollar; if it be an appeal, writ of error or supersedeas in a district court, three dollars and fifty cents; and if in the court of appeals, five dollars.

Appeals, &c.

On seals.

Seals of courts, notaries or state. 43. When the seal of a court, of a notary public, or the seal of the state is annexed to any paper, except in those cases exempted by law, the taxes shall be as follows: For the seal of the state, two dollars; for any other seal, one dollar and fifty cents, except in cases of protests of bills or notes for one hundred dollars or smaller sums; in which cases, the tax shall be fifty cents; and herein shall be included a tax on a scroll annexed to a paper in lieu of an official seal.

Exemptions, Code, p. 216.

On wills, and administrations.

Wills and administrations. 44. On the probate of every will or grant of administration, there shall be a tax of one dollar.

Deeds.

Deeds and contracts. 45. On every deed admitted to record, whether the same has been recorded before or not, and on every contract relating to real estate, whether it be a deed or not, which is admitted to record, there shall be a tax of one dollar.

Internal improvement companies.

46. Every rail road company or canal company shall hereafter report quarterly, on the fifteenth day of March, June, September and December in each year, to the auditor of public accounts, the number of passengers transported, and the aggregate number of miles traveled by them within this commonwealth, and the gross amount received by such company for the transportation of freight over such road or canal, or any part thereof, during the quarter of the year next preceding the first day of the month in which such report is made. Such company, whose road or canal is only in part within the commonwealth, shall report as aforesaid such portion only of such amount received for the transportation of freight, as the part of the said road or canal, which is within this commonwealth, bears to the whole of such road or canal.

Rail road and canal companies to report to the auditor quarterly

What to report.

When only partly within the state.

47. Such statement shall be verified by the oaths of the president and the superintendent of transportation, or other proper officer. Every company failing to make such report, shall be fined five hundred dollars. At the time of making such report, the company shall pay into the treasury, for every passenger transported, a tax at the rate of one mill for every mile of transportation of each of such passengers, and a tax of one-half of one per centum of such gross amount received for the transportation of freights. Every such company paying such taxes, shall not be assessed with any tax on its lands, buildings, cars, boats or other property which they are authorized by law to hold or have. But if any such company fail to pay such taxes at either of the terms specified therefor, then its lands, buildings, cars, boats and other property shall be immediately assessed under the directions of the auditor of public

Report made on oath.

Penalty for failure.

Tax on passengers.

Tax on freight.

To be exempt from tax on their lands.

In case of failure to pay, what is done.

accounts, by any person appointed by him for the purpose, at its full value, and a tax shall at once be levied thereon as on real estate and other property, to be collected by any sheriff whom the auditor may direct, and such sheriff shall distrain and sell any personal property of such company, and pay such taxes into the treasury within three months from the time when such assessment is furnished to him.

Horses brought into this state.

Horses, mules,
&c. brought into
the state.

48. On every license to sell horses, mules, asses and jennets, brought into this state for sale, ten dollars in each county.

Sales of horses for profit.

Selling on com-
mission horses,
mules, &c.

49. On every license to buy or sell for others on commission or for profit, horses, mules, asses and jennets, cattle, sheep or hogs, ten dollars.

Carriages and other vehicles.

Carriages and
other vehicles
manufactured
out of the state.

50. On every license to sell carriages, buggies, barouches, coaches, gigs, wagons, and such like vehicles, manufactured out of this state, fifty dollars in each county or corporation.

Sale of slaves.

Slaves sold on
commission.

51. On every license to buy or sell for others on commission or for profit, slaves, ten dollars; and on the yearly income derived from such business, an additional tax of one-half of one per centum.

52. The act passed the eighteenth of March, eighteen hundred and fifty-six, entitled "An act imposing taxes for the support of government," is hereby repealed.

Commencement.

53. This act shall be in force from its passage.

ACTS OF 1853-4, CHAP. 2.

An ACT imposing Taxes for the Support of Government.

Passed March 2, 1854.

*15. The tax on the estate of a decedent, prescribed by the thirty-ninth chapter of the Code of Virginia, shall be two per centum of such estate.

Tax on estate of a decedent.

20. This act shall be in force from its passage.

Commencement

* In the case of *Eyre v. Jacob*, sheriff, the court of appeals have held that this section of the tax law of 1854 is still in force, and is constitutional.

Section 38 of ch. 1, Acts of 1859-60, page 24 of this pamphlet, prescribing the manner of assessing taxes on persons and property, prescribes the rate to be imposed on real estate at two per cent. of such estate, and leaves the 15th section of ch. 2, Acts of 1853-4, in full force. The commissioners can therefore readily understand their duty, and they should not fail to assess all taxes on estates transmitted for each current year; and if any have been omitted, there is ample provision to be found for its assessment in § 70, ch. 1, Acts 1859-60, p. 44, of this pamphlet.

ACTS 1859-60, CHAP. 4.

An ACT for the Collection of Taxes on Persons and Property.

Passed March 28, 1860.

Be it enacted by the general assembly, that the thirty-sixth chapter of the Code of Virginia, and the first and second sections of the act entitled an act to amend the fifth, sixth and sixteenth sections of an act concerning sheriffs, commissioners of the revenue, their duties and compensation, passed March 15th, 1856, and repealing the eleventh section of said act, passed April 2d, 1858; also the thirteenth, fourteenth and seventeenth sections of chapter eight of an act entitled an act concerning sheriffs and commissioners of the revenue, their duties and compensation, passed March 15th, 1856, and all acts and parts of acts inconsistent with the provisions of this act, be repealed and re-enacted so as to read as follows:

Who collects taxes; when and how.

Collectors of taxes.

"1. The taxes assessed in any county under the provisions of the thirty-fifth chapter of the Code, shall be collected by the sheriff thereof, with the following exceptions. The sergeants of the cities of Norfolk, Portsmouth, Petersburg, Danville and Williamsburg shall be collectors of the taxes assessed in their respective cities.

Collections, when to commence.

2. Each sheriff or collector shall commence his collection yearly on the first day of July, or so soon there-

after as he may receive a copy of the commissioner's books; and may, after such time, make distress therefor.

*3. A person not residing in the county in which his land may lie, may, before the first day of October in any year, pay into the treasury in advance the taxes assessed on such land for that year, upon a certificate of the auditor of public accounts, for which a fee of fifty cents shall be paid to that officer. A list of such payments shall be transmitted by said auditor, immediately after the first day of October, to the sheriffs or collectors of the counties wherein such lands shall be situated, who shall be governed accordingly.

Who may pay taxes to auditor; when.

4. No distress shall be made for taxes or levies, where the sheriff or collector has had more than two years to collect the same, unless it be for taxes returned delinquent, and sent out by the auditor for collection, as provided by law. But a sheriff or collector of a former term may, notwithstanding the expiration of his term of office, by himself or by his deputies, have the same powers of distress and sale as he possessed before said term expired; and which right of distress and sale shall continue for the term of two years from the time such right first accrued; but no deputy shall be permitted to qualify for such collections after the principal's office has expired.

Distress for taxes.
Time for, limited to two years.
a Sheriff or collector may distrain and sell after office expires.

5. Any goods or chattels in the county or corporation, belonging to the person or estate assessed with taxes, may be distrained therefor by the sheriff or collector.

Any goods and chattels liable to distress.

*A non-resident of any county under the act to which this is an amendment, was authorized to pay any land tax due from him before the 1st day of August; and as the books of the commissioner were only required by law to be delivered to the auditor on that day, no time of sufficient length was allowed within which to make the payment. This section enlarges the time until the 1st day of October.

Where property is leased, tenant's goods and chattels liable to distress.

Restriction, what.

6. The goods and chattels of the tenant or other person in possession, claiming under the party or estate assessed with taxes on land, may be distrained if found on the premises. But when taxes are assessed wholly to one person, on a tract or lot, part of which has become the freehold of another, by a title recorded before the commencement of the year for which such taxes are assessed, the property belonging to the owner of that part, shall not be distrained for more than a due proportion of the said taxes.

Where land lies in two counties, a collector may distrain in either.

7. Where taxes are assessed on a tract of land lying partly in one county and partly in another, the sheriff of the county in which the taxes are so assessed, may distrain on that part of the land lying in the other county, in the same manner as if such part was in his own county.

Goods and chattels conveyed by deed of trust or mortgage may be sold for taxes.

8. No deed of trust or mortgage upon goods or chattels, shall prevent the same from being distrained and sold for taxes assessed against the grantor in such deed, while such goods and chattels remain in the grantor's possession; nor shall any such deed prevent the goods and chattels conveyed from being distrained and sold for taxes assessed thereon, no matter in whose possession they may be found.

Debts due to the person owing taxes may be taken for payment, how.

9. Where the officer cannot find sufficient goods or chattels to distrain for taxes, any person indebted to, or having in his hands estate of the party assessed with such taxes, may be applied to for payment thereof out of such debt or estate, and a payment by such person of the said taxes, either in whole or in part, shall entitle him to a charge or credit for so much on account of such debt or estate, against the party so assessed. If the person applied to do not pay so much as it may seem to the officer ought to be recovered on account of

the debt or estate in his hands, the officer shall, if the sum due for such taxes exceed not twenty dollars, procure from a justice a summons, directing such person to appear before some justice at such time and place as may seem reasonable; and if the sum due exceed twenty dollars, shall procure from the clerk of the court of the county or corporation a summons, directing such person to appear before the court of the county or corporation on the first day of the next term thereof. And from the time of the service of any such summons, the said taxes shall constitute a lien on the debt so due from such person, or on the said estate in his hands.

Taxes a lien on such debt.

10. If such summons be returned executed, and the person so summoned do not appear, judgment shall be entered against him for the sum due for such taxes, and for the fees of the clerk and of the officer who may execute the summons.

Judgment by default may be given for such taxes.

11. If the person so summoned appear, he shall be interrogated on oath, and such evidence may be heard as shall be adduced, and such judgment shall be rendered as upon the whole case shall seem proper.

If debtor appear he is to be examined; how.

Where one pays taxes another should pay.

12. A tenant from whom payment shall be obtained by distress or otherwise, of taxes due from a person under whom he holds, shall have credit for the same against such person out of the rents he may owe him, except where the tenant is bound to pay such tax by an express contract with such person.

A tenant who pays taxes shall have credit out of the rents.

Exception.

13. Where a tax is paid by a fiduciary on the interest or profits of moneys of an estate laid out or invested, either under an order of court or otherwise, the tax shall be refunded out of such estate.

Taxes paid by a fiduciary shall be refunded out of such estate.

Lists returned of uncollected taxes.

The sheriff to make out three classes of uncollected taxes:
 1st. Property not ascertainable.
 2d. Delinquent real estate.
 3d. Delinquent personal property.

14. The sheriff, or other collector, after ascertaining which of the taxes assessed in his county or corporation cannot be collected, shall, as soon as practicable, in each year, after the first day of October, make out lists of three classes, to wit: First, a list of property on the commissioner's land book improperly placed thereon, or not ascertainable, with the amount of taxes charged on such property; secondly, a list of other real estate which is delinquent for the non-payment of the taxes thereon; and thirdly, a list of such of the taxes so assessed, other than on real estate, as he is unable to collect.

The names of persons charged with taxes to be placed alphabetically.

15. In the lists mentioned in the preceding section, the names of the persons charged with the taxes shall be placed alphabetically. The list mentioned secondly, shall be in the following form:

Form of list of real estate.

Lists of real estate in the county of ———, delinquent for the non-payment of taxes thereon for the year ———.

Name of person.	Residence.	Estate held.	Quantity of land.	Description and local situation of land.	Distance and bearing from court house.	Amount of taxes.	Why returned delinquent.

Oath of officer making return.

And the sheriff or collector returning such list shall, at the foot thereof, subscribe the following oath: "I, A B, sheriff (or deputy sheriff) of the county of ———, do swear that the foregoing list is, I verily believe, correct and just; that I have received no part of the taxes

for which the real estate therein mentioned is returned delinquent; and that I have used due diligence to find property within my county liable to distress for the said taxes, but have found none."

16. The lists mentioned first and thirdly in the fourteenth section, shall each of them be verified by the oath of the sheriff or collector; and a copy of that thirdly mentioned shall be posted at the front door of the court-house of the county or corporation on a court day, during the term next preceding that at which the list may be presented to the court under the following section:

The list first and thirdly mentioned in 14th section to be verified by oath.
To be posted at court-house door, when.

17. Each of the said lists shall be presented to the court of the county or corporation, and examined by the court. The court being satisfied of the correctness of the said lists, or having corrected them, if erroneous, shall direct the clerk to certify copies thereof to the auditor of public accounts, and a copy of that first mentioned, to the commissioner of the revenue, who shall correct his books accordingly. The original lists shall be preserved by the clerk in his office. After the said copies are so directed to be certified, the sheriff or collector shall not receive any of the taxes mentioned in the said lists, but they may be paid into the treasury, or the personal property tax may be paid to the clerk of the county or corporation, who shall be accountable therefor in like manner and at the same time as for taxes on law process.

Lists to be examined by court.

If satisfied, copies to be sent to auditor.

How taxes returned delinquent may be paid.

18. Any officer, who shall return in any such list real estate, persons or property, as delinquent for the non-payment of taxes when such taxes, or any part thereof, shall actually have been received by him, shall forfeit, if the return was by design, ten times the amount of taxes so actually received, and if the return was by

Penalty for returning real estate, persons or property delinquent when taxes were paid.

When the taxes might have been collected.

mistake, twice the amount, one-half of which forfeiture shall in each case be to the commonwealth, and the other half to the person charged with such taxes. And any such officer who shall return in such list any real estate, persons or property as delinquent, when he had either found, or by using due diligence might have found sufficient property within his bailiwick, liable to distress for the taxes for which such real estate, persons or property are returned delinquent, shall forfeit to the commonwealth a sum equal to five times the amount of the said taxes.

Copies of lists of delinquents to be sent to auditor; auditor to credit sheriff.

19. The copies of lists directed to be certified to the auditor of public accounts, shall be placed by the clerk in a sealed enclosure directed to that officer, and delivered to the sheriff or collector by whom the lists were returned. The auditor shall credit the sheriff or collector with the amount of taxes mentioned in such lists, if the said lists be presented at his office before the first day of May next after the said taxes were assessed, but not otherwise.

When delinquent lists shall not be allowed.

*20. The lists required by the fourteenth section of this act to be made out by the sheriffs, shall not be allowed, unless they have been first submitted to the commissioner of the revenue for the district to which they relate, or in the case of his death, to some other commissioner, and are accompanied by the written opinion of such commissioner touching the propriety of such lists, and each case therein contained verified by his oath. The second and third lists heretofore returned, and when the third list mentioned in said section shall hereafter be allowed, a copy thereof shall be

Commissioner's certificate on oath to be obtained.

Land and property lists heretofore returned, and property list hereafter to be returned, to be sent out by auditor for collection.

* The amendment in this section restrains the auditor from transmitting to a collector any delinquent lands hereafter to be returned. Delinquent persons and property hereafter returned are to be annually sent out for collection.

placed by the auditor of public accounts in the hands of any sheriff or collector of any county or corporation for collection, to be returned within one year thereafter, and accounted for as other assessed taxes; or if the said auditor see fit, may place such copy in the hands of any constable as a collector, who shall have the same power of distress as sheriffs, and shall account for the same in like manner; and he and his securities shall be subject to all such remedies as are given the commonwealth against sheriffs for a failure to pay; and his compensation shall not exceed twenty per centum of the amount collected and paid into the treasury.

Delinquent taxes, how collected and accounted for.

*21. The taxes assessed under the 35th chapter of the Code, and collected under this act, shall be paid into the treasury as follows: Three-fourths of such taxes shall be paid on or before the 15th day of December in the year in which the same may be assessed, and the remaining one-fourth thereof on or before the 15th day of March next thereafter, save only as follows: a sheriff or collector, the court-house of whose county or corporation is more than thirty miles from the seat of government, shall be allowed, in addition, one day after the said 15th day of December and 15th day of March for every thirty miles distance therefrom. A sheriff or collector who may not have qualified, or who may not have received the books of the commissioner of the revenue before the first day of August, shall be allowed five months from his qualification, or the delivery of said books to such sheriff or collector, to pay the same into the treasury.

Three-fourths of taxes to be paid 15th December, the residue, the 15th March.

A Additional time allowed for distance, and from time of delivery of books.

22. Every sheriff or collector shall be allowed a com-

Sheriff's commissions.

* This section enlarges the time from the 1st day of February to the 15th day of March, within which the sheriff is to pay the last installment of his revenue; and allows one day for every thirty miles from the seat of government beyond said times.

Reward for punctuality, what.

mission of two and a half per centum on the amount of taxes with which he is chargeable; and if he shall punctually pay the same into the treasury within the time required by law, he shall be allowed an additional commission of two and a half per centum.

Upon failure to pay, auditor may file account with clerk.

*23. In case of a failure so to pay, the auditor of public accounts shall immediately publish notice of such default in some newspaper in the city of Richmond, setting forth that on a certain day, within three months after such failure, he will file in the office of the circuit court of the city of Richmond, with the clerk thereof, an accurate account of the amount with which any such sheriff or collector may be chargeable on account of such taxes; and thereupon such clerk shall enter up a judgment against such sheriff or collector, for the amount wherewith he is so chargeable, with lawful interest thereon, from the time of such failure until payment thereof, and fifteen per centum damages in addition thereto, unless the auditor of public accounts shall recommend a reduction thereof; which judgment shall have the same validity, and be subject in all respects to the like proceedings thereupon, as if it had been rendered by the court. But any person aggrieved by such judgment, may apply to the circuit court of the city of Richmond within six months after it is so entered up to set aside said judgment, and try said cause. The court for good cause may set aside said judgment and proceed to try the case upon its merits, and affirm the same, or render such judgment as it may consider proper. In any case of a failure so to pay, proceedings may be had

Clerk shall enter up judgment for amount and damages.

Validity of judgment.

Rebearing allowed.

Good cause necessary to set aside a judgment

Judgment may be upon notice.

* The publication of notice is not required so much to give the defaulting officer notice, so as to enable him to defend, as it is to publish his default. If a judgment be taken and execution issued, all the debtor's property is bound under general law. This section makes the service of a notice operate as such lien, which continues for the payment of the judgment to be rendered.

according to the 42d chapter of the Code. And from the time a notice shall be served under the said chapter, on any such sheriff or collector, the property of such sheriff or collector shall be bound for the payment of any judgment which may be rendered upon such proceeding, in the same manner that property is bound under the 3d section of chapter 188 of the Code, upon delivery of a fieri facias to a sheriff or other officer; and shall also operate as a lien on the real estate of such sheriff or collector from the time of the service of such notice. The right of the commonwealth to proceed, by notice or otherwise, against the sureties of such sheriff or collector, shall not be affected thereby.

Service of notice
alien on all estate

On personal prop-
erty, what.

Real estate, what

Rate of interest.

24. Every sheriff or other collector of the revenue, who does not pay the same into the treasury within such time as to be entitled to the additional compensation allowed for punctual payment, shall be charged with interest on the revenue so due and unpaid, from the time when the same was regularly payable into the treasury. The said interest shall be at the rate of 12 per centum per annum; but if the revenue is not in arrear more than three months, the auditor shall abate six per centum of said interest. If the revenue has been in arrear three months and not more than six months, then the auditor shall abate four per centum. If the revenue has been in arrear for six months and not exceeding nine months, then the auditor may abate two per centum.

Interest.
At what rate.

Abatement, when
and how to be
made.

Auditor may appoint collector.

25. The auditor of public accounts may appoint a collector in any county or corporation, to collect arrears of taxes therein, and may allow him a reasonable compensation, to be agreed on (before the service is com-

Auditor may ap-
point a collector.

Compensation
not to exceed 20
per cent.

menced) and approved by the executive, which compensation shall not exceed twenty per centum on what may be collected and paid into the public treasury.

Bond to be given
by collector, and
to have a reason-
able time to col-
lect.

26. Such collector shall have a reasonable time allowed him by the auditor of public accounts, and shall, before he acts, execute a bond, approved by the said auditor, conditioned that he will faithfully collect the said arrears of taxes, and account for and pay the same into the treasury within the time so allowed. The said bond shall remain filed in the auditor's office.

Where filed.

Commencement.

27. This act shall be in force from its passage.

CODE, CHAP. 39.

OF TAXES ON DIVIDENDS; CERTAIN ESTATES OF DECEDENTS; PROCESS IN SUITS; OFFICIAL SEALS; AND DEEDS, WILLS AND ADMINISTRATIONS.

1.—Repealed by chapter 9, section 21 of act passed March 18, 1856, imposing taxes for the support of government.

2. Within one month after such dividend is declared, the cashier of such bank, or the officer or agent of such company having custody of the funds thereof, shall certify on oath to the first auditor the amount of such dividend, and the amount of the tax payable on account thereof. If he fail so to do, he shall pay a fine of not less than one hundred nor more than one thousand dollars.

Amount of dividend to be certified to auditor.

Penalty for failure.

3. Within two months after such dividend is declared, the bank or company shall pay the amount of the tax thereon into the treasury, or, if the first auditor so direct, to the sheriff or other collector of the taxes assessed in the county or corporation in which such dividend is declared. If it fail so to do, it shall be liable not only for the amount of the said tax, but also for ten per centum damages thereon, to be recovered by action or motion.

When tax on dividends to be paid.

Damages for failure.

4. If within the year preceding the first day of February, any such bank or company shall not have declared a dividend, the cashier or other officer or agent having custody of the funds thereof, shall certify on

If no dividend has been declared, fact to be certified.

Penalty for
failure.

oath the fact that none has been so declared, and deliver such certificate to the first auditor before the first day of April following. If he fail so to do, he shall forfeit one hundred dollars.

5.—Repealed.

On certain estates of decedents.

Collateral inheritance is subject to tax.

6. Where any estate within this commonwealth of any decedent shall pass under his will, or the laws regulating descents and distributions, to any other person, or for any other use, than to or for the use of the father, mother, husband, wife, brother, sister or lineal descendant of such decedent, the estate so passing, if of greater value than two hundred and fifty dollars, shall be subject to a tax of a certain per cent.

Who is to pay
tax.

7. The personal representative of such decedent shall pay the whole of such tax, except on real estate, to sell which, or to receive the rents and profits of which, he is not authorized by the will; and the sureties in his official bond shall be bound for the payment thereof.

To whom the tax
is to be paid.

8. Such payment shall be made to the sheriff or other collector of the taxes assessed in the county or corporation in which certificate was granted such personal representative, for obtaining probat of the will or letters of administration.

Rate of tax to be
governed by law
at time of decedent's death.

9. The per cent. shall be governed by the law in force at the time of the decedent's death. It shall be on every hundred dollars in value of the estate subject to such tax, which the personal representative may have to pay or deliver, and in proportion for a smaller sum.

Value ascer-
tained.

Where he has personal property to deliver in kind, and

the same has been appraised, the value shall be ascertained from such appraisal.

10. Such personal representative may, if necessary, sell so much of the property subject to such tax as will enable him to pay the same. Property to be sold to pay tax.

11. The sheriff or collector shall apply for such tax, and when it is paid, give therefor duplicate receipts, one of which shall be lodged with the clerk of the court in which certificate may have been granted for obtaining probat of the will or letters of administration. The clerk shall record such receipt in the book wherein he records appraisements and accounts of sales of decedents' estates; and he shall forthwith transmit a copy thereof to the first auditor. The other receipt shall be delivered to the commissioner of the revenue for the county or corporation, who, on such delivery, shall make a copy thereof, at the foot of which he shall sign an acknowledgment that it is a copy of a receipt which has been delivered to him, stating the date of the delivery. Such copy shall be delivered to the personal representative, who shall pay therefor to the commissioner a fee of fifty cents. Every clerk or commissioner to whom any such receipt is delivered, shall forthwith transmit a copy thereof to the first auditor. Every personal representative or officer failing in any respect to comply with this section shall forfeit one hundred dollars. Duplicate receipts to be given by sheriff.
Clerk to record receipt and to transmit copy to auditor.
How other copies to be disposed of.
What to state.
Commissioner's fee.
Penalty on personal representative.

12. Any personal representative failing to pay such tax, before the estate on which it is chargeable is paid or delivered over (whether he be applied to for the tax or not), shall be liable to damages thereon at the rate of ten per centum per annum, from the time such estate is paid or delivered over until the tax is paid; which damages may be recovered with the tax, on motion against Damages for failing to pay such tax.

When estate
deemed paid.

him in the said court in the name of the commonwealth. Such estate shall be deemed paid or delivered at the end of a year from the decedent's death, unless and except so far as it may appear that the legatee or distributee has neither received such estate, nor is entitled then to demand it.

On process, seals, deeds, wills and administrations.

Writ tax.

13. There shall be a tax paid when a suit is commenced in a county or corporation court; when an original suit, or an appeal, writ of error, or superse-deas, is commenced in a circuit court; when an appeal, writ of error or supersedeas is commenced in the court of appeals; and when the seal of a court, or of a notary public, or the seal of the state, is annexed to any paper, except in the cases herein after provided for.

Taxes on seals,
to whom payable

14. The said taxes on process and seals of courts, shall be paid to the clerks of the courts respectively, from which said process is issued, or whose seal is used. The tax on the seal of a notary shall be paid to said notary, and that on the seal of the state, to the secretary of the commonwealth.

In what cases no
tax is to be
charged.

15. No tax shall be charged when a seal is annexed to any paper or document, to be used in obtaining the benefit of a pension, revolutionary claim, money due on account of military services or land bounty, under any act of congress, or under a law of this or any other state, or when a seal is annexed by a notary public to an affidavit or deposition.

Deeds not to be
admitted to re-
cord until tax is
paid.
Exception.

16. No deed shall be admitted to record until the tax thereon is paid to the clerk; except a deed conveying land as a site for a school-house or church.

17. No will shall be admitted to probat, until the tax on such probat is paid to the clerk. Tax on admitting will to probat.

18. There shall be no grant of administration on the estate of any decedent, until the tax on such grant is paid to the clerk; except where an estate is committed to a sheriff or other officer. Tax on obtaining letters of administration to be paid. Exception.

How collecting officers account and pay.

19. The clerk of each court, every notary public, and the secretary of the commonwealth, shall make out an account of all taxes received by him on or after the first day of September in one year, and before the first day of September in the next year. Clerks of courts, &c. to make out account of taxes, when.

20. Each of the said officers shall swear to the correctness of the account; which shall be rendered to the first auditor, and the amount appearing due thereby paid into the treasury, on or before the 15th day of December following, deducting thereout a commission of five per centum for receiving and paying the same. Accounts to be sworn to, and transmitted to auditor.

21. If any of the said officers fail to render such account on or before the said fifteenth day of December, there shall be a forfeiture therefor as follows: A clerk so failing shall forfeit six hundred dollars, a notary public three hundred dollars, and the secretary of the commonwealth one hundred and fifty dollars; and for every month that such failure may continue after the said fifteenth day of December, there shall be an addition to such forfeiture of one-twelfth of the amount thereof. For any such failure motions may be repeated from time to time, so long as it continues. If officer fail to render account, what penalty he incurs. How often to be recovered.

22. None of the said officers shall receive any money from the treasury, until he shall have rendered such account and made such payment as is above required. No officer shall receive any money from treasury until he shall render account.

Sheriff's commissions for money collected under this section.

23. All sums received by any sheriff or collector under this chapter, after deducting a commission of five per centum thereon, shall be paid into the treasury on or before the fifteenth day of December next after the receipt thereof. In case of failure so to pay, proceedings may be had according to the forty-second chapter.

ACTS 1859-60, CHAP. —.

An ACT authorizing and requiring Commissioners of the Revenue to Apportion the Assessment of Lands between the Owners of the Surface and of Minerals under the Surface, when held in fee by different Persons.

Passed February 29, 1860.

1. Be it enacted by the general assembly, that in all cases in which the surface of land is held by one person, and the minerals under the surface are held by another, the commissioner or commissioners of the revenue in counties in which any such mineral and surface titles exist, are hereby authorized and required to determine the relative value of each, and to assess the respective owners of any such minerals and surface rights with the value of their respective interests: provided, that the amounts assessed to both shall be the same as that with which the land is now assessed. Surface and mineral owners
Relative value to be determined

2. Any person feeling himself aggrieved by the assessment of any such lands, or the minerals therein contained, under this act, shall have the benefit of the remedy heretofore provided for by the fifth section of an act passed March tenth, eighteen hundred and fifty-six, entitled an act for the reassessment of the lands throughout the commonwealth. But the person asking such relief shall give to the other party interested in the assessment, ten days' notice of the motion for relief; which shall not be construed to dispense with any notice otherwise required by said act. Person aggrieved, what redress.
What notice.

3. This act shall be in force from its passage.

ACTS 1857-8, CHAP. 12.

*An ACT to regulate the Taxes by Counties, Corporations
or Districts, on State Bonds.*

Passed April 7, 1858.

Tax on state
bonds by cor-
porations and
counties.

1. Be it enacted by the general assembly, that no tax whatever shall be levied by any county or corporation, or any district therein, for any purpose whatsoever, on any bond, certificate or other evidence of debt issued by this commonwealth, or on any interest on such bond, certificate or other evidence of debt, at a greater rate than the rate at which said county, corporation or district taxes its own certificates of debt, or the interest on such bonds; and if such county, corporation or district have no debt, then it shall not tax the said certificate or evidence of debt issued by the commonwealth, directly or indirectly, at a greater rate than the rate of its ad valorem taxes on property.

Commencement

2. This act shall be in force from its passage.

CODE, CHAP. 96.

OF HOUSES OF ENTERTAINMENT AND BOWLING SALOONS.

1. Any person who shall for compensation, furnish lodging or diet to a person boarding in his house, or provender for a horse feeding in his stable or on his land (except a drove of live stock, and persons attending it), and sell, by retail, wine or ardent spirits, or a mixture thereof, to be drunk in or at the place of sale, shall be deemed to keep any ordinary or house of public entertainment. Who deemed to keep an ordinary

2. Any person who shall, for a time not exceeding one month, if within, or not exceeding one week, if without, a city or town, furnish for compensation, lodging or diet to one boarding in his house, or provender for a horse feeding in his stable or on his land, except as aforesaid, shall, if he be not the keeper of an ordinary, according to the preceding section, be deemed to keep a house of private entertainment, unless the place of furnishing the same, when without a city or town, be more than eight hundred yards from a public road or highway. Who deemed to keep a house of private entertainment.

Amended by act passed March 12, 1860, as follows :

“§ 3. For a license to keep a house of entertainment, the application shall be, when the house is in a town having a corporation court, to such court; and when it is not in any such town, to the court of the county wherein it is. If the court be of opinion that the applicant is sober and of good character, and will probably keep a house orderly, useful, and such as the law re- License to be granted by court. Discretionary power of court.

Refusal of license to be entered of record.

quires, it may grant such license. And if the house be in a town, the court, when it grants the same, may, if the applicant desire it, dispense with the necessity of his providing for horses. If any such application be refused, the refusal shall be entered of record, and a license shall not be granted to the applicant before the next March or April term, unless by a court composed of the same justices to whom the first application was made, or a majority of the acting justices of the county or corporation."

What to be kept for travelers in ordinaries.

4. Every person licensed to keep an ordinary or house of public entertainment, shall constantly provide the same with lodging and diet for travelers and their servants, and, unless it be dispensed with as aforesaid, with stableage and provender (as the season may require) for their horses. Any such person may, at the place of a muster or public sale, distant a mile or more from another ordinary, with the consent of the proprietor of such place, vend meat or drink as at his ordinary.

Where drink may be kept.

License may be revoked, how.

5. Upon the motion of the commonwealth's attorney for the county or corporation, or of any other person, after ten days' notice to any person so licensed, the court which granted such license may revoke it. It shall always revoke the same when it is satisfied that the object of obtaining the license is not to provide lodging or diet for travelers, but to use it merely as a facility for selling wine or ardent spirits, or a mixture thereof, to be drunk in or at the place of sale.

Court shall revoke license, when.

License to keep bowling saloon granted by court.

6. A license to keep a bowling saloon or alley, in a town having a corporation court, may be granted by such court, and when it is to be kept not in such town, by the court of the county wherein it is to be kept.

May be revoked.

Such license may be revoked, like any other license granted under this chapter.

CODE, CHAP. 198.

OF OFFENCES AGAINST PUBLIC POLICY.

6. If a keeper of an ordinary or house of entertainment permit unlawful gaming at his house, or at any out-house, booth, arbor, or other place appurtenant thereto or held therewith, he shall be fined one hundred dollars, and shall forfeit his license, and give security for his good behavior for one year, or, in default of such security, be imprisoned not more than four months.

Gaming at ordinary prohibited.

Penalty.

7. In a prosecution under the preceding section, if the gaming be proved, it shall be presumed it was permitted by the keeper of the house, unless it appear that he did not know of or suspect such gaming, or that he endeavored to prevent it and gave information of it, with the names of the players, to the next court of the county or corporation.

Permission to play presumed; when not.

8. If a keeper of an ordinary or house of entertainment let or hire to another person any out-house or other place, which has been at any time appurtenant to or held with the house kept by him, with intent that unlawful gaming be permitted thereat, he shall suffer the same punishment and incur the same forfeiture, as if such unlawful gaming were permitted at his own principal house; and in a prosecution therefor, if the gaming be proved, it shall be presumed that such out-house or other place was let or hired with intent aforesaid, unless the presumption be repelled in the manner mentioned in the preceding section.

Penalty for gaming at out-house, on keeper of ordinary.

Presumption of law.

CODE, CHAP. 53.

Duty of clerk, sheriff and commissioner of revenue in respect to levy.

County levy to be extended in commissioner's books.

Compensation to commissioner for service.

Penalty for failure to perform duty.

6. Within three days after any order for a levy, the clerk shall deliver to the sheriff or other collector of the state taxes, a copy of the said order for himself, and unless the same be dispensed with by the court, another copy for each commissioner of the revenue in his county ; to whom the same shall be delivered by the sheriff within three days after receiving it. The commissioner, unless the same be dispensed with by the court, shall immediately, in the copies of his land book and book of personal property, extend in a separate column what may be due from each person by virtue of the levy ; and for this additional labor shall receive such compensation as the county court may deem reasonable, which shall be chargeable on the county. If any clerk, sheriff or commissioner fail to perform the duty hereby prescribed, without reasonable excuse therefor, he shall forfeit not less than thirty nor more than one hundred dollars.

CODE, CHAP. 42.

Lists of lands belonging to the commonwealth to be made by commissioners of the revenue, and transmitted to the first auditor.

27. The commissioners of the revenue shall transmit to the first auditor a list of all lands in their respective districts belonging to the commonwealth, other than such as are waste and unappropriated, and including such as are escheated, and set forth in such list all the information which they can obtain in relation to the lands mentioned therein. For each tract of land or lot so mentioned by any commissioner, he shall receive one dollar from the treasury.

List of lands belonging to commonwealth transmitted to auditor.

CODE, CHAP. 113.

Proceedings to escheat lands.

Commissioner to
furnish lists of
lands which may
be escheated.

4. Each commissioner of the revenue shall annually, in May, furnish to the escheator of his county or corporation a list of all lands within his district, of which any person shall have died seized of an estate of inheritance, intestate, and without any known heir, or to which no person is known by him to be entitled; but no land shall be liable to escheat which for twenty years has been in the actual possession of the person claiming the same, or those under whom he holds, and upon which taxes have been paid within that time.

CODE, CHAP. 47.

Powers of courts and officers of counties from which new county is formed.

9. The courts which at the time of the passage of the act creating a new county had a jurisdiction over the counties from which it is formed, and the justices, sheriffs and other officers of those counties, shall, until a court is held for the new county, continue to have and exercise all the jurisdiction, power and authority which they had at the time of the passage of such act.

Court's jurisdiction before organization of new county.

10. The courts first mentioned in the preceding section, may, after the time of holding a court for the new county, continue to exercise jurisdiction over all cases depending in the said courts at that time; or the court wherein any case is so depending, of which a court of the new county would have had jurisdiction if brought after the said time, may remove such case to the circuit court of the new county, if the case was depending in a circuit court, or to the county court of the new county, if the case was depending in a county court.

Court's jurisdiction after organization of new county.

11. All taxes and levies assessed or laid by the commissioners of the revenue or court of any county from which the new county is formed, before the time of holding a court for such new county, and all militia fines and officers' fees in the hands of any sheriff or other officer at that time, shall be collected, accounted for and paid, and all process and precepts delivered to such sheriff or other officer, before that time, shall be executed, and returned and satisfied in like manner, and such sheriff or other officer shall have the like powers in respect thereto, as if such act had not passed.

Tax and levies assessed before the time of holding a court, how collected.

Powers of officers of old county.

ACTS 1859-60, CHAP. —.

An ACT to require Commissioners to furnish the Auditor with Lists of Lands within New Counties, purchased for the Commonwealth as Delinquent.

Passed March 16, 1860.

Be it enacted by the general assembly, as follows :

Commissioners to furnish the auditor with lists of lands within new counties, purchased for the commonwealth.

When, in the year eighteen hundred and sixty, or any other year in which, by the second section of the thirty-seventh chapter of the Code of Virginia, the auditor of public accounts is required to cause to be delivered to sheriffs or collectors, lists of real estate returned delinquent for the non-payment of taxes, any new county has been or shall be formed, the commissioners of the revenue of the respective counties from which the same is formed, shall, as soon as practicable, furnish to the said auditor lists of the real estate within the parts of such new county taken from the counties respectively for which they are commissioners, previously purchased on behalf of the commonwealth at sales for taxes, and remaining unredeemed, or returned delinquent, for either of the five years next preceding, for the non-payment of taxes, in order that the said auditor may cause such lists as first aforesaid, to be delivered to the sheriff of such new county.

Commencement This act shall be in force from and after the passage thereof.

ACTS 1853-54, CHAP. 11.

An ACT to prevent the Circulation of Small Notes.

Passed March 3, 1854.

1. Be it enacted by the general assembly, that it shall be the duty of commissioners of the revenue, and courts to whom application shall be made for license, to require, from each and every person who shall apply for license, an oath that he will not pay out, within the limits of the commonwealth, notes of a less denomination than five dollars, issued by banks, corporations or individuals.

Oath required of applicants for license.

7. This act shall be in force from and after the first day of June next: provided, that the first section of this act shall not go into operation until the first day of June eighteen hundred and fifty-eight.

Commencement
Proviso.

CODE, CHAP. 107.

*List of free negroes in his district to be returned by
the commissioner to the first auditor.*

List of free negroes to be returned to auditor

Penalty for failure.

To give information to grand jury

Penalty for failure.

5. Every commissioner of the revenue, annually, with his book of personal property, shall return also a complete list of all free negroes in his district, who are over twelve years of age, specifying their names, sexes, ages (as nearly as he can) and trades or occupations; of which list the clerk shall fix up a copy at the courthouse door, and preserve the original in his office. For a failure in such duty, the commissioner shall forfeit thirty dollars and the clerk fifteen dollars. The commissioner shall also give information to the grand jury of any free negro in such district remaining in this state against law; and in case of failure to give such information, he shall be fined three dollars for every such negro so remaining, of whose residence he had knowledge.

CODE, CHAP. 43.

Violations of the Revenue Law to be reported to the First Auditor by the Commissioner of the Revenue.

5. Every commissioner of the revenue shall give information to the first auditor of any violation in his county or corporation, of any law in relation to the public revenue. And every sheriff or collector shall give information to the auditor of any violation of duty by any commissioner of the revenue for his county or corporation.

Violation of revenue law to be reported to auditor

ACTS 1859-60.

RESOLUTION requiring the Auditor of Public Accounts to publish in Newspapers of Richmond City, delinquent Collectors of the Public Revenue.

Agreed to February 6, 1860.

Auditor to publish delinquent collectors of public revenue.

Resolved by the general assembly, that the auditor of public accounts shall hereafter ascertain all officers charged with the collection and payment of any part of the revenue, who are delinquent within the six months next preceding the first day of January and July of each year; and when so ascertained, shall publish the names of such delinquents in one or more of the newspapers published in the city of Richmond, not exceeding four insertions.

ACTS 1857-3, CHAP. 13.

An ACT to amend and re-enact an act entitled an act for regulating Foreign Life Insurance Companies within this Commonwealth, passed March 6, 1856.

Passed April 6, 1858.

1. Be it enacted by the general assembly, that an act entitled an act for regulating foreign life insurance companies within this commonwealth, passed March six, eighteen hundred and fifty-six, be amended and re-enacted so as to read as follows :

Acts 1855-56,
p. 26.

“1. Be it enacted by the general assembly, that no insurance company, unless incorporated by the legislature of this commonwealth, shall make any contracts of insurance within this state, until such insurance company shall have complied with the provisions of this act.

Conditions on
which they may
make contracts.

2. Every such insurance company shall, by a written power of attorney, appoint some citizen of this commonwealth, resident therein, its agent or attorney, who shall accept service of all lawful processes against such company in this commonwealth, and cause an appearance to be entered in any action, in like manner as if such corporation had existed and been duly served with process within this state.

Agent to be of
this state.

3. A copy of such power of attorney, duly certified and authenticated, shall be filed with the auditor of public accounts of this commonwealth; and copies thereof, duly certified by said auditor, shall be received in evidence in all courts of this commonwealth.

How power of
attorney filed.

Vacancies in
agency.

4. If any such agent or attorney shall die or resign or be removed, it shall be the duty of such corporation to make a new appointment as aforesaid, and file a copy with the said auditor of public accounts as above prescribed, so that at all times, and while any liability remains outstanding on such insurance, there shall be within this state an attorney authorized as aforesaid; and no such power of attorney shall be revoked until after a like power shall have been given to some competent person, and a copy thereof filed as aforesaid.

Process, how
served.

5. Service of process upon such attorney shall be deemed to be sufficient service upon his principals.

Penalty for viola-
tion of this act.

6. If any such insurance company shall make insurance as aforesaid, without complying with the requisitions of this act, the contract shall be valid; but the agent or attorney of such company, acting within this state, respecting the effecting of any policy of insurance, shall forfeit a sum not exceeding one thousand dollars nor less than three hundred, for such offence; and every person shall be deemed an agent of such company who shall receive or transmit proposals for insurance, or receive for delivery policies founded on proposals forwarded from this state, or otherwise, to procure insurance to be effected by such insurance company for persons residing in this state, or who shall receive payment for such policies, and shall be subject to the restrictions and liable to the penalties specified in this act.

Who deemed an
agent.

Returns of agent
to auditor.

7. Every person acting as an agent in this state for any insurance company not incorporated by the legislature of this commonwealth, shall, on the first Monday of October or May in every year during the continuance of his agency, make a return on oath to the auditor of public accounts of the amount of premiums received and assessments collected during the said period, and

shall at the same time pay into the treasury such tax Tax on pre-
miums. as may be imposed by law on the amount of such premiums and assessments; and the whole sum received for policies, whether paid in money or in other obligations, shall be deemed to be premiums for the purposes of this section.

8. If any such company, through their attorney, shall neglect to make such returns and payments as are re- Penalty for fail-
ure to make
return. quired in the preceding section, or shall make the same fraudulently or falsely, they shall for every such offence forfeit a sum not exceeding one thousand dollars.

9. Every such company, through their agent or at- Bond required of
agent. torney, shall, before making or procuring to be made any contract of insurance as aforesaid, give bond to the auditor of public accounts, with two or more securities, to be approved by him, in the sum of not less than one thousand dollars nor more than five thousand dollars, at the discretion of the auditor of public accounts, with conditions to make the semi-annual returns before required, and to pay the tax.

10. If any person shall act, otherwise than provided Penalty for agent
acting illegally. by the second section of this act, as agent for any such company, to make or renew, directly or indirectly, any contract of insurance within this state, and with any persons resident therein, without having complied with the requisitions of this act, or in any way contrary to the true intent and meaning thereof, he shall forfeit and pay, for every such offence, the sum of five hundred dollars.

11. It shall be the duty of the attorney general and Attorneys to en-
force the act. commonwealth's attorneys of this commonwealth to cause the provisions of this act to be enforced.

How fines dis-
posed of.

12. All penalties recovered for violations of the provisions of this act shall go, one-half to the persons giving information of such violations, and one-half to the Literary fund.

Tax herein pro-
vided to be in
lieu of other tax.

13. The tax to be paid by the agents of foreign insurance companies, according to the provisions of this act, shall be in lieu of the tax prescribed by law to be paid by them before the passage of this act."

Commencement.

2. This act shall be in force from its passage.

ACTS 1852-3, CHAP. 4.

An ACT to provide for the Registration of Voters.

Passed April 9, 1853.

1. Be it enacted by the general assembly, that each commissioner of the revenue shall annually, in addition Commissioner of the revenue to list. to the lists of persons and subjects of taxation now required by law, list every male white citizen within his Who to be listed. district, who will, at the next ensuing general election for members of the general assembly, or for county, town or city officers, have attained the age of twenty-one years, and who will have been, at such next ensuing election, a resident of the state for two years, and of the county, city or town in which such district is, for twelve months, should he continue to reside in such county, city or town until such election.

2. The commissioner shall list the names of such male white citizens in such manner as to exhibit separately those who reside in the respective districts, laid off for the election of justices, or in the wards which together constitute the district for which he acts as commissioner. List to show district in which voter resides.

3. He shall return, with the property book, one copy of the entire list, so made out by him, to the clerk of his county or corporation court, who shall file and preserve the same in his office. He shall also make out, To whom list returnable. and return to such clerk, as many separate lists of such male white citizens as reside within such district, or ward constituting part of the district for which he acts as commissioner, as there are places of voting within such district or ward; and if there be portions only of any such district or ward lying within the district for which he acts as commissioner, he shall list those residing therein How many lists made out. Where only a portion of an election district lies within his district, how to act.

separately, under the appropriate number or name of the ward or district; and shall in like manner make out and return as many lists thereof as there are places of voting in such ward or district.

Names omitted
in lists, how en-
tered, and when.

4. It shall be lawful for any such male white citizen, whose name has not been entered upon such list, to apply to the commissioner of the revenue for his district, at any time prior to the tenth day before any such general election, to have his name entered on such list; and it shall be the duty of the commissioner, on the tenth day before such election, to return as aforesaid lists of such additional names to the clerk of his county or corporation.

Compensation of
commissioner,
what, and how
paid.

5. In discharging the duties required by this act, the commissioner shall be subject to the same rules as are prescribed by law to govern his conduct in ascertaining the persons and subjects required to be listed for taxation, and shall receive three cents for each voter listed by him, to be paid out of the county levy or corporation fund.

Penalty for frau-
dulent entry by
commissioner.

6. If a commissioner of the revenue shall knowingly and willfully enter upon such list the name of any person who is not a male white citizen, or who, at such next ensuing election, will not have been, if he continues to reside in this state, a resident thereof for two years, or who, at such next ensuing general election will not have been, if he continues to reside therein, a resident of the county, city or town in which such commissioner acts, for twelve months, such commissioner shall forfeit a sum not less than twenty nor more than one hundred dollars for every such offence. And if any such person shall knowingly and willfully cause his own name to be entered upon such list, he shall forfeit a sum not less than fifty nor more than two hundred dollars.

By the person
listed.

7. It shall be the duty of the clerk of such county or corporation, at least five days before any such general election, to deliver to the commissioners of election for each place of voting in his county, city or town, a copy of such lists for the district or ward in which such place of voting is; and such lists shall be prima facie evidence of the right of the persons, whose names are entered thereon, to vote at such general election. Lists given to commissioner of election, when. The Prima facie evidence of right to vote. Pay of clerk. clerk of each county and corporation shall receive one cent for every name so listed, to be paid out of the county and corporation treasury; but it shall be competent for the commissioners of elections to receive evidence to prove that any such name was illegally entered upon such lists, or that any person whose name is not upon such lists is qualified, as required by this act and the constitution, to vote in such election; or that any person, whose name is on such lists, has, prior to such election, and since the making of such lists, ceased to be a resident of the county, city or town in which he offers to vote; and in every such case, the commissioner shall receive satisfactory evidence to show the incorrectness of such lists, as well in respect to the disqualification of those persons whose names are entered thereon, as in respect to the qualifications of those whose names have not been entered upon such lists. Evidence may be rebutted.

8. And if, at any such general election, any person shall offer to vote in a district other than that in which he resides, and in which his name is required to be listed as aforesaid, the commissioners of elections shall require satisfactory evidence of the qualification of such person to vote at such election. Persons offering to vote in a district in which they do not reside. Evidence of qualification required.

9. This act shall be in force from its passage, so far as it prescribes the duties of the commissioners of the revenue. In other respects, it shall be in force on and after the first day of January next. Commencement

ACTS 1852-3, CHAP. 25.

An ACT concerning the Registration of Births, Marriages and Deaths.

Passed April 11, 1853.

Three registers
to be kept by
clerk.

1. Be it enacted by the general assembly, that from and after the first day of January eighteen hundred and fifty-four, the clerk of every county and corporation court shall keep three books, to be called, respectively, the register of marriages, the register of births, and the register of deaths.

Amended by act passed April 7, 1858, as follows :

Duty of ministers

"2. Henceforth it shall be the duty of every minister or other person celebrating a marriage, and of the clerk or keeper of the records of any religious society which solemnizes marriages by the consent of the parties in open congregation, at once to make a record of every marriage between white persons solemnized by or before him, and within two months after such marriage, to return a copy thereof, signed by him to the clerk of the county or corporation in which the same is solemnized. The clerk issuing any marriage license, shall at the time require and ascertain from the party obtaining such license, a certificate setting forth, as near as may be, the date and place of the proposed marriage, the full names of both the parties, their ages and conditions before the marriage (whether single or widowed), the places of their birth and residence, the names of their parents, and the occupation of the husband."

3. The clerk to whom such certificates shall be re- Abstract by clerk
turned, shall file and preserve the same in his office,
and within twenty days after receiving the same, record
a full abstract thereof in his register of marriage, set-
ting out in convenient tabular form, all the circumstances
therein stated, and the name of the person signing the
certificate, and make an index of the names of both
the parties married.

4. If at the time of celebrating any marriage out of If marriage out
of the state.
this state, either or both of the parties thereto be a re-
sident or residents of this state, a certificate or state-
ment thereof, verified by the affidavit of any person
present at such celebration, may be returned to the
clerk of the court of the county or corporation in which
the husband resides, if he be such resident, and other-
wise, of the county or corporation in which the wife
resides, and an abstract thereof shall be recorded by
him in the manner prescribed in the third section.

5. If any minister who shall give bond in order to Penalty on minis-
ter for non-com-
pliance.
his being authorized to celebrate marriage in this state,
shall fail to comply with the second section, the condi-
tion of such bond shall be deemed to be thereby broken,
and he shall also be subject to the penalty herein after
prescribed for such failure.

6. Every such clerk of a court shall, on or before Second section
to be published,
when.
the first day of the next November term of his court,
post at the front door of his court-house a copy of the
second section, with a statement of the penalties for
violation thereof.

7. Every commissioner of the revenue shall make an Registration of
births and deaths,
by whom made.
annual registration of the births and deaths in his dis-
trict. When he ascertains the personal property subject When.
to taxation, he shall ascertain the births and deaths that

From what
source.

have occurred in the year ending on the thirty-first day of December preceding, and such circumstances as he is herein after required to record. He shall ascertain the births and deaths in each family from the head of such family, if practicable.

What contained
in his record of
births.

8. He shall record in a book to be kept by him for that purpose, so far as can be ascertained, the date and place of every such birth; the full name of the child (if it has a name); the sex and color thereof; and if colored, whether free or slave; also whether the child was born alive or stillborn; the full name of the mother: and if the child be free and born in wedlock, the full name, occupation and residence of the father; if the child be a slave, the name of the owner: if there be more than one child born at one birth, the fact and number shall be stated; and any other circumstances of interest relating to any birth.

Of deaths.

9. Every such commissioner shall in like manner record in a book to be kept by him for that purpose, the place and date of every death in his district during the year ending on the preceding thirty-first day of December; the full name, sex, age, condition (whether married or not) and color of the deceased: and if colored, whether free or slave; also the occupation, if any, of the deceased, and his or her place of birth, the names of his or her parents, and (if the deceased was married) the name of the husband or wife; and if the deceased was a slave, the name of the owner; also the disease or cause of the death, so far as such facts can be ascertained.

Amended by chapter 28, act passed April 7, 1858, as follows:

Commissioner's
affidavit.

10. The commissioner shall alphabetically arrange

each of the books so to be kept by him, and shall make and subscribe an affidavit therein, to the effect that he has pursued the directions in this act, according to the best of his skill; and he shall return his said books to the clerk of the court of his county on or before the first day of June.

Amended by chapter 23, act passed April 7, 1858, as follows :

11. Such clerk shall thereupon record a full abstract of the contents of the said book, containing a record of births, in his said register of births, setting forth, in convenient tabular form, all the circumstances herein before required to be recorded, with references to the commissioner's books, and making an alphabetical index of the names of the free children born, and (when they have no names) of the names of the parents, and also of the names of the owners of the slaves born. Duty of clerk in register of births

Amended by ch. 28, act passed April 7, 1858, as follows :

12. He shall in like manner record a full abstract of the contents of the said book, containing a record of deaths, in his said register of deaths, setting forth, in convenient tabular form, all the circumstances herein before required to be recorded, with reference to the commissioner's book, and making an alphabetical index of the names of the deceased, and the names of the owners of deceased slaves. Of deaths.

13. Every such clerk of a court shall file and preserve in his office the books so deposited with him by the commissioners. Commissioners' books to be filed.

14. He shall transmit to the auditor of public ac- Registers transmitted to auditor, when.

counts a copy of his register of marriages during the preceding year, on or before the first day of March in each year, and a copy of his register of births and register of deaths during the preceding year, on or before the first day of August in each year.

Abstract of auditor.

15. Such copies shall be filed and preserved in the said auditor's office, and from them the auditor shall prepare an abstract annually of marriages, births and deaths in each county and corporation, and make a report upon said registrations once in every period of two years, to be laid before the general assembly.

When to report to legislature.

Registers to be prima facie evidence.

16. The said books to be kept by the clerks, and copies (or of any part thereof) certified by the clerk lawfully having the custody thereof, shall be prima facie evidence of the facts therein set forth, in all cases.

Pay of clerk for copies.

17. A clerk shall be entitled to ten cents for every copy of an entry in said books relating to a marriage, birth or death, to be paid by the party requiring the copy.

How commissioner to obtain his information.

18. If a commissioner in any case cannot obtain the requisite information concerning any birth or death from the head of a family, as before required, he shall obtain the same from such persons as are herein after required to give it; or if that cannot be done, from any other persons, always recording the name of the person giving the information.

Physicians and surgeons.
Their duties.

19. Every physician and surgeon shall, in a book to be kept by him, make a record at once of the death of every person dying in this state, upon whom he has attended at the time of such death, setting out as far as practicable the circumstances herein required to be recorded by a commissioner respecting deaths. He

shall give to a commissioner of the revenue, whenever called on by him for that purpose, annually, a copy of such record, so far as the same relates to deaths in such commissioner's district. To report to commissioner.

20. Every coroner shall keep a like record of the deaths in relation to which he acts officially, and give a copy thereof to any commissioner of the revenue, whenever called on by him for that purpose, annually, so far as the same relates to deaths in such commissioner's district. For every neglect or failure to perform any duty required of him by this section, a coroner shall forfeit twenty dollars. Coroners; their duties. Penalty for failure.

21. The commissioner shall make such entries or corrections in his record of deaths as may be supplied or warranted by the copies so to be furnished to him by physicians, surgeons and coroners, noting the source of the information. Entries by commissioner.

22. The head of any family, if he be not at his residence when the commissioner calls there to obtain the information required by this act to be obtained of him, shall give the same information to the proper commissioner of the revenue on or before the first day of June in the same year; and for a failure or neglect to do so, shall forfeit one dollar. If any head of a family, being lawfully requested to give any such information, shall refuse to give the same, he shall forfeit ten dollars. If head of family absent, what his duty. Penalty for failure. Penalty for refusal to give information.

23. If any commissioner of the revenue fail to obtain any information respecting a birth or death, which he is by this act authorized or required to obtain, and which he can procure, he shall for every such failure, and for every failure to record the information acquired by him respecting a birth or death, according to this act, forfeit five dollars. Penalty of commissioner for failure of duty.

For failure to
perform duties
in 10th section.

24. If any commissioner of the revenue fail to perform the duties required of him by the tenth section of this act, he shall forfeit fifty dollars.

Penalty of clerk
for failure of
duty.

25. If any clerk of a court fail to perform any duty required of him by the third section of this act, he shall forfeit ten dollars for every such offence; and if he fail to perform any duty required of him by the eleventh, twelfth, thirteenth or fourteenth sections, he shall, for every such offence, forfeit fifty dollars.

Fine for making
false returns.

26. If any clerk of a court, commissioner of the revenue, physician, surgeon, coroner or minister celebrating a marriage, or clerk or keeper of the records of any religious society, shall, in any book, register or record, which such officer or person is by this act required to keep or make, or in any copy or certificate which by this act he is required to make or give, knowingly make any false, erroneous or fraudulent entry, record, registration or written statement, he shall for every such offence forfeit not less than one hundred nor more than five hundred dollars.

Fine for false in-
formation.

27. If any person, upon whose information or statement any record or registration may lawfully be made under this act, shall knowingly give any false information or make any false statement to be used for the purpose of making any such record or registration, he shall forfeit not less than fifty nor more than three hundred dollars for every such offence.

Forms and in-
structions, how
furnished.

28. The auditor of public accounts shall furnish the clerk of every county and corporation court and every commissioner of the revenue with all forms and instructions which he may deem necessary or proper for carrying this act into effect.

Commencement

29. This act shall take effect on the first day of July eighteen hundred and fifty-three.

ACTS 1852-3, CHAP. 55.

An ACT establishing a Colonization Board and making an Appropriation for the Removal of Free Negroes from the Commonwealth.

Passed April 6, 1853.

*5. Be it further enacted, that an annual tax of one Poll tax on free negroes. dollar shall be and the same is hereby levied upon every male free negro of the age of twenty-one years and under fifty-five years, to be ascertained and assessed on each by the commissioner of the revenue in every year, and collected by the sheriff or other collector of the public revenue as other public taxes and levies upon free negroes are collected. All such taxes shall be ac- How accounted for. counted for with the auditor in the present year and every year hereafter, and paid into the treasury as other public taxes. And an account thereof shall be raised on the books of the auditor and treasurer. The fund How applied. arising from this source shall be applied to the removal of free negroes from the commonwealth, in the manner prescribed in the preceding sections of this act, and in addition to the appropriation therein made. And it Tax on seal for registration. shall be the duty of the county or corporation courts to charge the legal tax for the seal of court and attestation

* Section 4 of chapter 3, Acts 1859-60, imposing taxes for the support of government, levies a tax of eighty cents on every free negro over the age of twenty-one years. This section imposes a tax of one dollar on every male free negro between twenty-one and fifty-five years of age, to be applied to the removal of free negroes from the commonwealth. The enquiry is naturally suggested, whether both taxes are to be assessed and collected for their specified purposes. Both acts may consistently stand together; and while it is not believed the general assembly did intend to impose both taxes, yet such seems to be the only interpretation that can be sustained.

of every copy of registration delivered by them to any free negro, and to account with the auditor of public accounts for such tax and pay the same into the treasury as other taxes on law process, except that they shall designate the same so as to enable the auditor and treasurer to enter all such moneys to the account directed to be raised in the preceding part of this section, and the same shall be applied to the object thereof.

How applied.

See Acts 1849-50,
p. 7.
Repealed.

6. The act of the eleventh of March eighteen hundred and fifty, entitled an act making appropriations for the removal of free persons of color, and for other purposes, is hereby repealed.

Commencement

7. This act shall be in force from its passage.

CIRCULAR.

AUDITOR'S OFFICE, RICHMOND, VA.

April 11, 1860.

SIR,

The general assembly, at the session which adjourned on the 2d instant, with a view to compile the entire revenue laws, passed four acts, which are published in this pamphlet, as chapters 1, 2, 3 and 4. Chapter 1 embraces the entire duties of commissioners and others in the "assessment of taxes on persons and property;" chapter 2 covers similar duties in respect to, and makes general "regulations concerning licenses;" chapter 3 "imposes taxes for the support of government;" and chapter 4 provides "for the collection of taxes."

Each subject has been treated separately, and each has been reduced into a separate act; and I trust the commissioners will find the acts intelligible, and stripped of the uncertainty which surrounded many of them before their compilation, and presented in such manner as will in a great measure obviate the necessity of having their various parts interpreted. Nevertheless, the 15th section of chapter 1, page 16, makes it the duty of the auditor of public accounts, by letter or printed circular, to give such instructions to the commissioners, in respect to their duties, as to him shall seem judicious. The same section fixes a penalty of not less than \$10 nor more than \$30 on any commissioner who refuses to obey such instructions; which is recoverable from such commissioner by the auditor, in the circuit court of the city of Richmond. See § 2, ch. 43 of the Code.

NOTE.—The pages herein referred to are the pages of this pamphlet.

Term of office; listing property; when to commence.

The term of office of a commissioner of the revenue commences on the first day of February after his election (see ch. 20, Acts 1857-8, § 63, 76, p. 9, 10); and the listing of property is to be commenced on the 1st day of February, and the property owned on that day is the subject of taxation. See ch. 1, § 61, Acts of 1859-60, p. 37. Each commissioner should be careful to obtain a list of all persons and property and the value thereof, which may be subject to taxation in their respective districts, and to require each person to make oath to such lists. See ch. 1, § 62, p. 37, 38.

Time for returning copies of the commissioners' books.

Sections 86, 87 and 88 of the 1st chapter of the Acts of 1859-60, p. 49, requires the commissioners to deliver the proper number of copies of the land books and books of personal property to the clerks of their respective county and corporation courts before the 1st day of June. One copy of each is to be delivered to the sheriff or collector before the 15th day of June. The copy intended for this office is to be returned before the 1st day of August. For a failure to deliver said books within the times named, the commissioner forfeits for each failure not less than \$100 nor more than \$500, and by mere operation of law his claim is suspended. And the same act in like manner suspends the commissioner's claim for failure to perform any other duty required by law, but the auditor of public accounts, if the commissioner show a "strong and sufficient" reason for his failure, may settle his claim upon equitable principles. See § 91, ch. 1, p. 50; and § 97, ch. 1, p. 53.

Examination of books.

It is the duty of the clerks of the county and corporation courts, when all the columns are added up, to examine the books returned to their respective offices by the commissioners of the revenue, within twelve days after their return. A want of promptness on their part postpones the sheriffs or other officers in the collection of the taxes and their payment into the treasury, and not unfrequently embarrasses the commissioner. See § 79, 80, 81, ch. 1, p. 47. For what the clerks' pay may be suspended. See § 85, ch. 1, p. 49.

Fees and compensation to commissioners payable first September in each year.

Instead of the per diem allowance heretofore given to commissioners, every commissioner of the revenue is entitled to receive a commission of $2\frac{1}{2}$ per centum on the amount of the taxes LAWFULLY assessed by him, which is held to include taxes assessed on real estate as well as personal property. Where, however, the taxes assessed in any district in a county exceed \$20,000, the commission on the excess is only $1\frac{1}{2}$ per centum, and where the taxes assessed in any district in a town exceed \$16,000, the commission allowed on the excess is only 1 per centum; but the compensation to a commissioner of a county not named in § 96 of chap. 1, p. 59, is not to be reduced below \$150. Neither is the pay of any commissioner in Gilmer, Pocahontas, Pendleton, Putnam, Raleigh, Ritchie, Tyler, Upshur and Wirt, to be less than \$200; nor in Bath, Carroll, Prince William and Danville, to be less than \$125; nor in Giles, Grayson and Williamsburg, to be less than \$100.

Postage advanced, and a fee of three cents for each birth and death reported, are to be reimbursed and paid. No order of court is necessary to authenticate a claim, but all such as above are paid upon the evidence in the office.

As the compensation for the services of a commissioner of the revenue is made to depend upon the punctual performance of his duty, in every thing that appertains to his office, I may be excused for urging, most earnestly, a punctual and faithful discharge of those duties.

When taxes on land, persons and property are payable.

By the 21st section of chapter 4, Acts of 1859-60, p. 107, it is provided, that the taxes collected under chapter 35 of the Code, which, as amended, appears in this pamphlet as chapter 1, are to be paid into the treasury as follows: Three-fourths are to be paid on the 15th day of December in the year in which the same are assessed, and the remaining one-fourth on the 15th day of March next thereafter, with this exception, that a sheriff or collector who has not received the commissioners' books before the first day of August, is allowed five months after the receipt of the books to collect and pay; and with this additional qualification, that a sheriff is allowed one day for every thirty miles that he resides from the seat of government.

By § 52 of ch. 2, Acts 1859-60, p. 79, taxes "assessed" on or after the first day of September and before the first day of May, are to be paid into the treasury on or before the 30th of May, and those issued at any other time, to be paid when other taxes are paid. In case of failure to pay, judgment is required to be taken, without notice, against the sheriff or collector and his securities.

Money transmitted in payment of dues.

As the practice of transmitting money to the address of the auditor of public accounts, in payment of public dues, involves an amount of responsibility not contemplated by law, and for which no security, beyond the integrity of the messenger, prevails or is authorized, the auditor was induced to call the attention of the joint committee of the senate and house of delegates, appointed at the last session of the legislature to examine the office of the auditor of public accounts, to the peculiar situation in which such transactions are involved, and ask for its aid in discontinuing the usage. The committee, in their report, amongst other things, said, "the messenger of the office, Joseph J. White, receives a salary of \$800, as indicated in the last act appropriating the public revenue for the fiscal years 1857-8 and 1858-9. Upon the messenger of the office, besides his more appropriate duties, there is devolved, by usage, a degree of labor and responsibility so singular, that your committee deem it worthy of notice. Collectors of the revenue very frequently send, by express and otherwise, large sums of money to the auditor, who, however, has no authority to receive it for the state. The auditor, as an act of accommodation to the sender, delivers the money to the messenger, that he may carry it to the bank to the credit of the sender. In this entire transaction there is no security for the owner of the money; there is no

warrant of law for entrusting it either to the auditor or the messenger. In case of loss, the state is not responsible. No loss has yet occurred; but the existence and increase of this practice seem to require notice and discouragement. It imposes considerable burdens on the auditor, and it involves large risks on the part of those who seem to imagine that the risks cease when the money reaches the possession of the auditor. Your committee recommend that this practice, so far as it confides to state officials money intended for the treasury of the state, be discouraged. This may be done by a circular from the office."

I am happy to add, that no loss has occurred in the transactions of the messenger, who is not only a man of high integrity, but eminently qualified for the post which usage has assigned him. But it is a post not contemplated by law, and involves labor and responsibility which will not in the future be assumed, unless the remittances be in checks, which may be traced in cases of mistake or accident. It is sincerely hoped that no bank notes will in the future be transmitted *directly* to this office.

Sheriffs' commissions.

Every sheriff or collector is allowed a commission of $2\frac{1}{2}$ per centum on the amount of taxes collected and paid into the treasury. And in addition thereto, if he pay each installment, as above indicated, within the time specified, he will be paid, as a reward for his punctuality, an additional sum of $2\frac{1}{2}$ per centum commission. For a failure to pay as required, the sheriff or collector will be charged with interest at the rate of 12 per centum per annum. Acts 1859-60, chap. 4, sec. 22, page 107-8.

In case of failure so to pay, the auditor is required, within three months after such failure, to publish notice thereof, in some newspaper in the city of Richmond, and to file in the office of the circuit court of the city of Richmond, with the clerk thereof, an accurate account of the money with which such sheriff or collector may be chargeable on account of such taxes. Upon such account being filed, the clerk is required to enter up judgment against such sheriff or collector for the amount of such account, with interest at 12 per centum per annum, and 15 per centum damages in addition thereto. Under this provision, the auditor has been deprived of all discretion on the subject. He is required to file the account and demand judgment.

Licenses, how granted.

The 18th section of chapter 2, Acts 1859-60, p. 66, makes it the duty of the person desiring a license, to apply to the commissioner for a certificate of the license to be obtained and the amount of tax to be paid, and makes it also the duty of the commissioner, whether such application be made or not, to assess all who ought to obtain a license.

A license to sell must designate the place of sale. A merchant must pay a tax for each store.

A sale made at any place other than that designated in the license, is to be held to be a sale without license. See § 2, ch. 2, Acts of 1859-60, p. 60; and § 28, ch. 2, Acts 1859-60, p. 71.

The commissioner's certificate, with the sheriff's or collector's receipt for the tax to be paid, written on the certificate, is a sufficient license, unless it be a certificate to be presented to court for the privilege of selling wine, ardent spirits, or a mixture thereof, or to keep an ordinary; or such other privilege as makes it necessary to apply to court. In which cases, the court's sanction must be obtained before the license is complete.

Expiration of licenses.

All licenses granted under § 19, ch. 2, Acts 1859-60, p. 67, 68, are granted for one year, and may commence at any time during such year. The licenses thus granted are personal privileges, and no one can act under them, except the person to whom they were granted.

A license to the owner of a stallion begins at any time in the year, but must expire on the first day of January. See § 20, ch. 2, Acts 1859-60.

Licenses to keep bowling alleys, &c. may commence at any time in the year, and terminate at four months from the time of granting them, or may be for a year.

All other licenses may be granted at any time in the year, but shall terminate on the 30th day of April. See § 22, ch. 2, Acts 1859-60, p. 69.

A person commencing any trade or business for which a license is required by law, before making application for and obtaining such license, shall be assessed with "four" times the amount of tax otherwise imposed. The person here referred to is one who had not, for the license term next preceding, been engaged in the particular business then commencing, for which a license was required. See § 22, ch. 2, Acts 1859-60, p. 70.

Ordinaries; tax to be paid on license.

The tax is the same as heretofore. See § 10, ch. 3, Acts 1859-60. The former law, as interpreted, required the yearly value of the furniture to be assessed. This act does so in terms. It is not 15 per cent. on the value of the furniture which is to be assessed as a tax, but it is 15 per cent. on the yearly rent of such furniture.

Merchants' license.

A merchant or mercantile firm is to be assessed with \$60 license tax; which

is the specific tax on beginners or those who have not been engaged in business for twelve months, unless the capital employed be shown by the affidavit of such merchant or firm to be less than \$ 500—then the tax is \$10.

A merchant or mercantile firm desiring to sell wine, ardent spirits, or a mixture thereof, porter, ale or beer (if a beginner, or those who have not been engaged in business for twelve months), by retail only, the license tax imposed is \$ 40 in addition to the merchants' tax; and if to sell by wholesale and retail, the tax is \$100 in addition to the merchants' tax. If the license be to continue the privilege, the tax is one per cent. on the amount of sales of the previous year, in addition to the specific tax. See § 19, ch. 3, p. 89.

When a merchant has been engaged in business for a year or more, then the tax on the license of such merchant is in proportion to the last year's sales, as follows :

If the sales are under \$1,001, the tax is	-	-	-	\$ 20
If the sales are \$1,001 and under \$1,500, the tax is	-	-	-	24
“ “ 1,500 “ 2,500, “	-	-	-	32
“ “ 2,500 “ 5,000, “	-	-	-	48
“ “ 5,000 “ 10,000, “	-	-	-	76
“ “ 10,000 “ 15,000, “	-	-	-	96
“ “ 15,000 “ 20,000, “	-	-	-	112
“ “ 20,000 “ 30,000, “	-	-	-	140
“ “ 30,000 “ 50,000, “	-	-	-	208

And an additional tax of \$10 for each sum of \$10,000 excess of sales over \$ 50,000.

Distilleries.

The tax on the proprietors of every distillery, if a beginner, is twenty dollars. If the distillery is to be kept in operation as much as four months in the year, the tax is thirty dollars; if for six months, forty dollars; if for nine months, sixty dollars; if for a longer time than nine months, one hundred dollars. See § 17, ch. 3, p. 88. If the owner of such distillery is engaged in distilling the fruit or grain produced by himself, there is no tax unless he is so engaged for as much as four months in any one year; in which case he must pay the same tax as others not so engaged. See § 4, ch. 2, Acts 1859-60, p. 61.

Foreign insurance companies.

A tax of \$ 25 is imposed on every license to an agent or sub-agent of every insurance company not chartered by this state. See § 36, ch. 3, Acts 1859-60, p. 93-94. In addition to this license, the agents are required to report on oath to the auditor of public accounts semi-annually, on the 1st Monday of October and May in each year, the amount of premiums received and assessments collected

during said period, and shall at the same time pay into the treasury the tax imposed. See Act of April 6, 1858.

Forms for license returns.

To insure uniformity in your license returns, you will find a form appended, by which you will be governed, taking care to annex the affidavit in the form prescribed, and particularly where the certificate of assessment has been delivered to a deputy sheriff or collector, to state not only the name of the deputy, but his principal also. A copy of such list must be returned to the auditor, and another copy filed with the clerk of the court.

Collateral inheritance tax.

If the inheritance be real estate, transmitted under a decedent's will, or by descent, as provided by chap. 1, § 9 of the Acts 1859-60, it is the duty of the clerk of the court in which such will is recorded, and the clerk of the court of the county or corporation in which any such real estate is situated, upon ascertaining the fact, to report the same to the commissioner of the district in which the real estate may be. The commissioner upon ascertaining that the land is of greater value than \$250, in "addition" to the annual tax imposed upon such estate, shall charge thereon "two per centum" on the *whole value* of such estate; i. e. if the real estate be of the exact value of \$250 or less, no tax is to be imposed; but if it be of the value of \$251, the tax of "two per centum" is to be imposed—not on the *one dollar* above \$250, but upon the whole value.

The same rate of taxation prevails in respect to any other estate so descending or passing and within the same limitations; but the mode of assessing and collecting the tax on real estate is different from that on personal property, which may readily be observed by reference to the Acts on those subjects. While it is made the duty of the sheriff to apply for the tax on personal property, and while it is the duty of the personal representative to pay it, yet the law does not dispense with the general duty of the commissioner to make the assessment of both the real and personal estate, and to see that the law is complied with.

If any such taxes be omitted, an assessment thereof should be made upon the authority of the 70th section, chap. 1, p. 44.

Delinquent taxes.

The sheriff or other collector, after ascertaining which of the taxes assessed in his county or corporation cannot be collected, shall, as soon as practicable, in each year, after the first day of October, make out lists of three classes, to wit: First, a list of property on the commissioner's land book improperly placed thereon or not ascertainable, with the amount of taxes charged on such property; secondly, a list of other real estate which is delinquent for the non-payment of the taxes

thereon; and thirdly, a list of such of the taxes so assessed, other than on real estate, as he is unable to collect.

It is further provided that the lists to be made out by the sheriffs, shall not be allowed, unless they have been first submitted to the commissioner of the revenue for the district to which they relate, or in the case of his death, to some other commissioner, and are accompanied by the written opinion of such commissioner touching the propriety of such lists and each case therein contained, verified by his oath.

The regular mode of preparing a list of delinquents, is for the sheriff or collector to make oath to the effect:

1st. That the list thirdly mentioned was posted at the door of the court-house of the county or corporation on a court day, during the term next preceding that at which the list may be presented to the court.

Sheriff's oath.

2d. That the sheriff make and subscribe an oath, to the following effect: "*I, A B, sheriff (or deputy sheriff) of the county of ———, do swear that the foregoing list is, I verily believe, correct and just; that I have received no part of the taxes returned delinquent; and that I have used due diligence to find property within my county liable to distress for the said taxes, but have found none.*"

And that the said sheriff or collector present the lists with such affidavits to the commissioner of the revenue, who is supposed to be personally acquainted with the pecuniary condition of the tax payers, and who will prepare an opinion, on oath, in substance, or by the following

FORM OF COMMISSIONER'S CERTIFICATE AND OATH.

"*I, ———, do certify that I am commissioner of the revenue for ——— district in the county of ———. That the annexed list of delinquents has been submitted to me for my opinion in writing, on oath, as to the propriety of such list; and it appearing to relate to my district, and having carefully examined the same, and 'each case' therein contained, do hereby accompany the said list with my opinion, that the officer who returned the same,* did not find, or by using due diligence could not have found, sufficient property within his bailiwick, liable to distress for the said taxes.*

Signed _____

Sworn to before me, a justice of the peace in and for the county of ——— this ——— day of ——— 186—.

_____ J. P."

* Or in lieu of what follows, the commissioner will state such facts as he believes to exist.

Instructions have been given elsewhere to assess every person *exercising* any calling or trade for which a license is required by law, whether such person apply for a license or not, and I have prepared the following form of return, and affidavit :

LICENSES.

A list of all persons assessed with a license tax in the district of ———, commissioner of the revenue in the county (or corporation) of ———, from the first day of ——— to the first day of ——— 186—.

Date of licenses.	Name of person or firm.	Business or profession licensed.	Name of sheriff or other officer to whom the list of licenses was delivered.	When the list of licenses was delivered to sheriff or collector.	Data upon which the tax was assessed.	Amount of tax.

VIRGINIA—COUNTY OF ———, TO WIT :

“I, ———, commissioner of the revenue elected by the qualified voters of the county of ——— for ——— district in said county, do solemnly swear, that I have assessed all the above named persons required by law to obtain licenses, and did deliver to every such person a certificate of the license to be obtained and the amount of tax to be paid by him.

I do also solemnly swear, that I did make fair classified lists thereof, at intervals not exceeding fifteen days, and did deliver such lists as above indicated, to the person therein named as collector, at the time therein stated, for his guide in collecting the taxes imposed by law on such licenses.

I do also solemnly swear, that the above list embraces all persons within my district, to the best of my knowledge and belief, required by law to obtain licenses.

Given under my hand this — day of — 186—.

I, ———, a justice of the peace in and for the county of ——— (or notary public, as the case may be), do certify, that ———, a commissioner of

the revenue for the above named district in the county of _____, and who subscribed the foregoing oath, this day personally appeared before me, in my county aforesaid, and made oath that the same contains the truth.

Given under my hand this _____ day of _____ 186—.

_____, J. P."

New counties.

The 11th section of chapter 47 of the Code provides, that "all taxes and levies assessed or laid by the commissioner of the revenue or court of any county from which the new county is formed, before the time of holding a court for such new county, and all militia fines and officers' fees in the hands of any sheriff or other officer at that time, shall be collected, accounted for and paid," as if such act creating the new county had not passed.

To understand this subject properly, it becomes necessary to ascertain the meaning of the expressions employed—"taxes assessed," and "levies laid," as used in the above section. We all understand that "taxes" are dues to the state assessed by commissioners of the revenue. "Levies" are taxes for county or corporation purposes, levied by the county or corporation courts.

Commissioners of the revenue commence their assessments annually on the first day of February; and the assessment must be taken to be an entire thing—that the commissioner or authority who begins the assessment must finish it. This service commences on the first day of February for state purposes. The commissioner of the county from which a new county has been formed, where no special provision is made, must proceed with his work over all the territory which his county originally embraced, unless the first court of such new county has been held before that time; in which event he should not exercise jurisdiction in the territory of such new county.

While it may be proper to assess and collect taxes in a new county by the officers of the county from which it was formed, yet without any conflict of authority, the officers of the new county may levy and collect for county purposes; and indeed may and should receive all licenses assessed and paid after the organization of the county, by holding a court therein. But the officers of the old county, where no special provision has been made in the act creating the new county, should proceed with their assessment and collection as if the act creating the new county had not passed, if the assessment has been made before holding a court in the new county.

To give point to the various questions arising as to the construction of the revenue laws. I will suppose the following questions to have been submitted and answered as follows, and which are to be treated as instructions.

QUESTIONS AND ANSWERS.

County levies.

Question 1.—By the 6th section of chapter 53 of the Code, it is made the duty of a commissioner of the revenue, upon being furnished with an order for a levy, to extend in the commissioner's land book and book of personal property, in a separate column, what may be due from such person by virtue of the levy. It frequently occurs that the order for such levy is not made until after the 15th of June, before which time the commissioner's books are to be delivered to the sheriff. In such case, is the commissioner to omit the delivery of his books until the extension of the levy can be made?

Answer.—He is not. The law requires the commissioner to deliver his books to the sheriff or collector before the 15th of June in each year, and imposes a penalty of not less than \$100 nor more than \$500 for his failure to deliver them within that time. The policy of the legislature in authorizing the extension of the levy was merely for the convenience of county officers, and not intended to postpone or defeat the collection of the state taxes. It is proper to make the extension, but the delivery of the books is not to be postponed for that object.

Exemption of merchants' bonds.

Question 2.—What bonds are exempt from taxation, in the hands of a merchant paying a license as such?

Answer.—By the constitution of Virginia the general assembly may levy a tax on licenses; but to avoid a double taxation on the same subject, it is provided that no tax shall be levied "on the capital invested in the trade or business in respect to which the license so taxed is issued."

The 44th section of ch. 1 of Sess. Acts 1859-60, on page 28, seems to include every thing exempted by the constitutional provision. Under this section, I am of opinion, that the subject matter of the merchant's business, merchandise, his open accounts on his books and unliquidated, his money on hand the first of February, received in the course of his trade and business, are all clearly exempted. So much of the excess of the bonds, securities and liquidated claims due to him over those due from him to others, shall, if actually and actively employed and used by him in carrying on his business, be exempt; but this exemption is restricted to such bonds and debts as accrue within the preceding twelve months. If they are created in such trade previous to the first day of February of the year preceding that of the assessment, they are not exempt, although a new bond may have been given for them within the preceding year.

The exemptions are in a great measure made to depend on the oath of the

party—showing, I think, a legislative intent to restrain the undue extension of exemptions. The party must be honestly satisfied that the bonds in question constitute a part of the “actual active means used and employed by him in carrying on such trade or business,” and not within the limitations contained in the act, before they can be exempted.

Land bonds.

Question 3.—If A sell lands to B on credit, taking B's bonds for the purchase money, A retaining the legal title until the purchase money is paid—to whom should the lands be taxed? And if proper to charge A, who holds the legal title, with the taxes on the lands, should he at the same time pay taxes on the bonds given by B for the payment of the purchase money? If A is to be charged with the taxes on the lands and on the bonds at the same time, is it not double taxation, and in violation of the 22d section of the 4th article of the constitution?

Answer.—The lands are to be charged to A. The bonds are also to be charged to A. The tax upon the lands and upon the bonds is not liable to the objection supposed. I do not think there is any provision of the law which authorizes a commissioner of the revenue to transfer lands upon his books except upon matter of record, unless, indeed, under chapter 1, section 22 of the Code, found on page 18, the vendee and vendor assent to it. There is no doubt, however, but that the vendee in possession is liable over to the vendor for the tax on the land—and if the vendor, by reason of the rules obligatory upon the commissioner, be assessed with it, and is compelled to pay it, he may recover it of the vendee by action. Even if he could not, it is no fault of the state, but of himself.

The amount of property subject to taxation is not necessarily increased by the sale from A to B. We will suppose that B has claims or bonds due to himself for \$10,000, which he wishes to collect and invest in A's lands of the value of \$10,000. Before the sale A is taxed with the land, and B is taxed with the claims or bonds owing to him, and each is taxed according to the value of his property named. The state in this case receives taxes from both A and B on property of the value of \$20,000. After the sale A, retaining the legal title to the land, is taxed with it on that account, and he is taxed on B's bonds, because there is that amount of solvent bonds owing to him. A in this case pays taxes on property of the value of \$20,000. But what taxes does B pay on the \$10,000 owing to him? I answer that he pays nothing. It is true that there are \$10,000 owing to B, but he owes A \$10,000, and he deducts from the amount owing to him the amount he owes to A, under the provisions of the 50th section of chapter 1, Sess. Acts 1859-60, p. 31, which in the case supposed would exonerate B from taxes to the state, and he only be liable over to A for the taxes on the land he should pay.

It is true it may happen that where an insolvent vendee of lands gives bonds to the vendor, to the full value of the land, he may create a subject of taxation,

which before the sale had no existence. With this a tax law can have nothing to do. It would involve an enquiry into the condition of the monetary affairs of the community too intricate to be prosecuted, or to be made the basis of practical legislation.

Bonds for the hire of negroes.

Question 4.—Should bonds given for the hire of negroes be taxed?

Answer.—It frequently happens that the owners of slaves at the beginning of the year hire out their slaves and take bonds for the payment of the hire at various times during the term of service. The payment of such bonds may be defeated by the death of the slave, and the question has frequently been asked whether such bonds are to be listed for taxation? I think they are; but I advance this opinion with much diffidence, because of the great confidence I have in the opinions of those who think differently.

The 48th section of ch. 1, Acts of 1859-60, p. 30 and 31, requires the commissioner to ascertain from each person residing in his district the amount of all solvent bonds and securities, and all solvent, liquidated and certain demands and claims, however evidenced, owing and coming to such person, *whether due or not* on the first day of February; and declares that the aggregate of principal and interest shall constitute the amount of a bond or claim due and payable; and that "*the present value, after deducting the legal interest, shall constitute the amount of a bond or claim not yet due and payable, and which bears no interest.*"

This section clearly includes a bond of the character stated. But is it a "*bond or claim*" for money? I think it is. It is argued, however, that the slave may die during the term, and thus defeat the claim. This is certainly correct; but I submit whether it is not a contingency too remote to enter into the character or construction of a tax bill.

All property is to be taxed as of the first of February. On that day a person may have a house of the value of \$20,000, erected upon a lot of ground of the value of \$1,000. On the second day of February the house may burn down. He may have a claim on a man who is solvent on the first of February, and who in ten days thereafter is a bankrupt. His horse which he owned on the first, may die on the second of February. The person himself may die on the second. All these citations would seem to present cases in which the tax ought to be disclaimed; yet the legislature has no where authorized such a disclaimer, or given authority to the revenue officers of the state to enquire into the consideration of such bonds, or estimate for the contingency of their validity. The broad and comprehensive terms of the 48th section of ch. 1, above referred to, without doubt, includes them; and the legislature has, in its own wisdom, withheld all discretion from the revenue officers to relieve against the actual misfortune of any person, or against any contingency arising out of the various contracts of the tax payers.

These are not exactly analogous cases, but I take it they are sufficiently so, to show at least the absence of any intention to relieve against contingencies.

The slave is listed by and taxed to the hirer. The value of his labor is taxed to the owner.

Every general law must include cases of hardship. The case supposed may be one; but in my opinion, if the amount to be paid is liquidated and solvent, whether due or not, it must be listed and taxed.

Omitted land.

Question 5.—Where the assessor of lands in the year 1856 has inadvertently omitted from his assessment and books a tract of land, and the owner of the land wishes to have it entered and charged with taxes, is the commissioner to assess the actual value, or adopt the assessment of 1850 or any previous assessment? In such case of omission, is it the duty of the commissioner of the revenue to enter such lands without request—and if so entered, should the back taxes for the omitted years be charged with interest?

Answer.—The 23th section of ch. 1, Acts 1859–60, p. 20, is applicable in such cases. It is the duty of the commissioner *ex mero motu* to enter such land in the name of the owner—and if not assessed, to assess it by reference to the assessment of 1856, on *contiguous lands similarly situated*.

The back taxes should be entered for the omitted years, according to the assessment of those years, on such *contiguous* lands, with interest.

Value of lands, how ascertained.

Question 6.—A has several adjoining tracts of land, each tract, according to the last assessment, of different values. Since the assessment the soil has been improved, so as to equalize their values. A has sold and conveyed 100 acres, part of each tract? Is the tract thus sold to be charged according to the assessed value of the tracts from which the same was taken, or according to its actual value, or how otherwise?

Answer.—The assessed value in such case, not the actual value, must be the rule. The general assessment, except in special cases provided for, is the law of value to the commissioner in all cases.

While mistakes may be corrected, a change in the assessment cannot be made, except on account of buildings. The alienation of a portion of a tract may involve a partial reassessment, but the assessed value of the whole must govern the value of each; or in other words, the lot sold and the lot retained must be of the assessed value of the whole as an entire tract. Although the lots may be of different values, they must, when their separate values are added together, be

equal and not greater than the assessed value of the entire tract before the alienation.

Question 7.—A has a tract of land supposed to contain 500 acres, and is charged for taxation on the commissioner's books as of that quantity. Upon a survey or other evidence, it is ascertained that the tract contains 550 acres. Has the commissioner authority to correct the books, and charge A with the proper number of acres? If so, is he to retain the aggregate value of the 500 acres, or the value per acre as assessed, and add thereto the value of the 50 acres?

Answer.—The commissioner, under § 30, ch. I, Acts 1859-60, p. 21, is required to carry with him the land books of the preceding year. He shall show his entries to resident owners, and to agents of non-resident owners, who shall be required to state on *oath* whether the same be correctly entered, and whether any other land ought to be charged to such resident or non-resident, and to describe the same, and to describe the land which may not be correctly entered. The commissioner is required to correct any mistake made in any entry in the land book of the preceding year. Thus showing a legislative intent, within certain restrictions, to make all such corrections, not prohibited, so as to arrive at the truth of each particular case. The correction of the book in this question supposed, should be made according to the truth of the case. The value per acre should be retained, and the aggregate value ascertained.

Mill sites.

Question 8.—After leave has been given to erect a mill or other machine by order of court, and the applicant, to whom such leave was granted, has paid to the parties the compensation ascertained, to whom is the land circumscribed by the jury to be charged for taxation; and herein does it make any difference if the right to erect said mill, &c. has been forfeited by his failure to finish it within three years? See ch. 63 of the Code.

Answer.—By the 7th section of ch. 63 of the Code of Virginia, after payment of the compensation ascertained to the several parties entitled, the land condemned vests in the mill owner in fee simple. He is then to be charged for tax upon it. Until then, the land belongs to the original owner, who is to be charged with it.

After the right to erect the mill has been forfeited, by the 9th section of the same chapter the title reverts to the original owner. The tax until then is to be charged to the applicant, he having complied with the 7th section. After the forfeiture, it is to be charged to the owner by the reversion.

Land book; corrections of mistakes therein.

Question 9.—A has sold and conveyed his land to B, but B omits to place his deed on record, so as to have the land entered and charged to him. A asks the

commissioner under the circumstances to strike his name from the book in respect to the land sold and conveyed. Has the commissioner the right to do so?

Answer.—By section 30 of chapter 1 of Acts 1859-60, p. 21, the commissioner, upon being satisfied that land has been transferred by deed from a party charged upon the land book of the year before, is authorized to transfer the assessment of such land to the alienee.

Question 10.—If the land books of the previous year omit the *nature* of the estate, whether in “fee,” or for “life,” and place the number of acres in the wrong column, is the commissioner to search the records for the nature of the estate, and correct that as well as the other mistake alluded to?

Answer.—By section 40 of chapter 1 of Acts 1859-60, p. 24, such errors as are stated may be corrected, and it is obvious they should be corrected.

The clerk, under sections 80 and 81 of chapter 1, Acts 1859-60, p. 47, with the commissioner, should examine the records, and supply the omission to state the nature of the interest in the land of the parties assessed, whether in “fee,” or for “life.”

Several titles to the same land.

Question 11.—A has a tract of land containing 500 acres, with which he is assessed for taxation. Afterwards, to perfect his title, he purchases another's claim, or obtains a new grant for the same land. Is he to be taxed only for the land, or for each title by which he holds it? And herein, if the land is entered through mistake more than once, how is the commissioner to be governed in correcting the entries?

Answer.—He is to be taxed upon the land—not upon his several titles. The commissioner finding such a mistake in a previous year, is authorized to correct it. See Acts 1859-60, ch. 1, § 30, p. 24. Of course he is not bound to make such erroneous entry himself.

Improvements.

Question 12.—If the owner of a lot of land should place thereon an iron railing or fence of the value of \$100 or upwards, should such value be added to the value of the lot as before charged.

Answer.—I think the railing should be assessed as a new improvement. It is as much so as a new house, and should be regarded as an appurtenant to the mansion.

Salt works.

Question 13.—Where the chief value to land arises out of the value of salt

wells thereon, which at the time of the last assessment were being worked, but which at this time are abandoned as almost valueless; should the commissioner treat the salt wells as "buildings" on which the assessment may be increased or reduced according to circumstances?

Answer.—I think the "wells" are not "buildings," within the meaning of sections 31, 32, 33 and 34 of ch. 1 of Acts 1859-60, p. 22. The only relief to be had in such cases must be granted by the legislature.

Commonwealth's lands.

Question 14.—Is a commissioner entitled to a fee of one dollar for the entry of each tract of land, bought in at a sheriff's sale for taxes?

Answer.—By section 27 of ch. 42 of the Code, the commissioner of the revenue is required to transmit a list of all lands belonging to the commonwealth, &c. to the auditor, and allows the commissioner one dollar, to be paid from the treasury, for each tract or lot mentioned in the commissioner's list. The class of lands here referred to, embraces such as the commonwealth has title to by fee simple, acquired by sale under executions, escheat, &c. Lands sold for taxes by the sheriff, and which may be redeemed at any time, are not commonwealth's lands, within the meaning of this section. Upon the contrary, they belong to the original owner, subject only to the commonwealth's lien for taxes; and for such the commissioner is not entitled to a fee.

Toll-bridges and ferries.

Question 15.—By the 52d section of ch. 1 of Acts 1859-60, p. 32, the commissioner of the revenue is required to ascertain the yearly value of all toll-bridges and ferries in his district, and is to be governed by actual rent received; and if not rented, he is to make a just estimate of the value. In case the toll-bridges and ferries are leased, is the tax to be charged to the lessor or lessee?

Answer.—It must be paid by the owner of the property, not by the lessee. This on general principles should be so, and the language of the section referred to in the question implies it. Thus the words are, "he shall be governed by the actual rent *received*," where rented or leased out; otherwise, he shall make a "just estimate of the value;" that is, the yearly value. If the lessee was the party taxed, the word "*received*" would not have been used—but the word employed to express the meaning would have been "*paid*." In the latter section, this tax on the *yearly* rent or *annual* value of bridges, &c. is associated with the income tax, showing that the person to be taxed in such case was intended to be the receiver of the yearly rent.

In truth, it would be against all analogy to tax the lessee upon what he *pays*: The whole policy is to tax upon what a man *receives*—thus proportioning burden to ability.

The tax should be assessed on the "*actual rent received*," where it is leased or rented, and upon the tolls, if they can be ascertained, in a case where the bridge or ferry is *not rented*.

Public bonds.

Question 16.—Where a person holds state or other bonds, from which he receives semi-annually or at other periods the interest thereon, and is indebted to others in an amount equal to those bonds. Should the amount he owes be deducted from the public bonds, so as to relieve those bonds to that extent from taxation?

Answer.—Certainly not. The deduction of debts is only to be allowed from private credits. The tax on public bonds is upon the interest. On private bonds, &c. it is upon the principal. The sections imposing taxes and prescribing assessments, are distinct. See § 49, ch. 1, Sess. Acts 1859-60; ch. 3, § 6, p. 84.

As to what extent counties and corporations are prohibited from taxing state bonds, see ch. 12, Acts of 1857-8, p. 134.

Interest on private bonds, when to be taxed.

Question 17.—Where bonds are given, payable in several annual or periodical installments, with interest, does the interest form principal on the 1st of February of each year for the purposes of taxation, whether the bonds be then due and payable or not?

Answer.—If the bonds are payable, the principal and interest are to be taxed. If not payable, nor bearing interest, the present value, deducting interest, is to be taxed. If not payable, but bearing interest, aggregate principal and interest, and tax the present value of the aggregate. See § 50, ch. 1, Sess. Acts 1859-60, p. 31.

Bonds held by fiduciaries.

Question 18.—If a fiduciary in Virginia sell property and take bonds from the purchaser, are those bonds to be charged to him in his fiduciary character for taxation? If the bonds are not under his control, how?

Answer.—The fiduciary must list such bonds, and this, though not under his control. He is the holder of them in legal contemplation. See Acts 1859-60, ch. 1, sec. 46, p. 28-9.

Shares in savings banks, how taxed.

Question 19.—A citizen of Virginia own shares in a savings bank, or in an insurance company in another state, and draws dividends therefrom. How are such dividends to be taxed?

Answer.—The dividends are to be taxed under the 7th section of ch. 3, Acts 1859-60, p. 85, at the rate of six and two-thirds per centum.

Savings banks.

Question 20.—If a savings bank omit to declare a dividend, is the capital to be taxed? If the officers of such an institution refuse to render the information necessary for taxation, what is the commissioner to do?

Answer.—Where a savings institution has declared dividends the year next preceding the first day of February, its dividends are taxed. Where no dividends have been declared, its capital is taxed.

In case of the refusal supposed, the commissioner should proceed to make out the assessment from the best information he can otherwise obtain. I am not aware of any other remedy, and presume no other would be usually needed.

Deposits in banks, &c.

Question 21.—Is money deposited in savings banks and in insurance companies to be taxed to the depositor, or how otherwise?

Answer.—Such money is to be taxed to the depositor as a "credit." See § 2 of ch. 3 of Acts 1859-60, p. 83.

Incorporated companies.

Question 22.—How are shares of stock in an incorporated company declaring no dividends, to be taxed? Are they to be charged to the shareholder or company? If to the company, is the tax to be imposed on the capital invested or on the property owned by the company?

Answer.—Banks, as to moneys and personal property, constituting part of their capital, are not taxable.

Other incorporated companies, other than savings institutions and insurance companies, are taxable upon their personal property and moneys.

Savings institutions and insurance companies, declaring dividends, are taxed upon them; and when so taxed, their money and personal property are exempt. When they declare no dividends within the year preceding the 1st of February, their money and personal property are taxed.

The real estate of all these incorporated companies, not expressly exempted, is taxable.

No shares of stock in such companies are taxable. The bonus paid by the banks, and the taxes upon the property or dividends of other companies than banks, are already burdens upon the shareholders in them.

Question 23.—Can a company incorporated, whose capital has been paid up, reduce its capital stock by resolution so as to avoid taxation, without the authority of the legislature?

Answer.—All companies except gas companies are to be assessed upon capital invested, except so much as is uninvested in real estate and slaves, which shall be listed and assessed as in other cases. Slaves are not assessed *ad valorem*, and real estate is subject to larger fluctuations.

The amount of capital otherwise invested would ordinarily be the best test of value.

I do not see how any company can by resolution reduce the amount of the legal assessment.

Money or property in other states.

Question 24.—Where a resident of Virginia has money invested in other states, or bonds of persons there, but under his control in this state, is the money or are the bonds subjects of taxation in Virginia?

Answer.—Such money or bonds due by non-residents are taxable in the hands of resident creditors. See § 48, ch. 1, Acts 1859-60, p. 30, 31, which expressly includes such non-resident's debts as subjects of taxation.

Income of non-residents.

Question 25.—Where A resides out of Virginia, but has a trustee or personal representative in this state, who receives interest or other income on the property of his principal, is such trustee or representative chargeable with a tax on the income?

Answer.—The trustee must list the property or interest held or received by him for a non-resident *cestui que trust*. He must do the same as personal representative. See section 41, ch. 6, Sess. Acts 1859-60, p. 28, 29.

Non-residents' debts.

Question 26.—Are debts due from residents of other states or foreign countries to residents of Virginia, to be taxed as though the debts were due from residents of Virginia? Does the fact that the evidences of such debts are in the state or country where the debtors reside, and not in the possession but only under the control of the Virginia creditor, make any difference?

Answer.—All such debts are taxable. The custody of the evidence of such debts makes no difference. The ownership of the debts is the basis of taxation in such cases.

Overseers' salaries.

Question 27.—Many gentlemen in Virginia are employed as overseers on farms at a fixed compensation, payable in cash, or in support of the overseer and his family. Is it proper to tax the compensation of such overseer as *income*?

Answer.—Overseers are taxable upon the value in money of what they receive. If boarded, the amount or value of the board I do not suppose can be assessed. The basis of assessment in cases of incomes and salaries, must necessarily be the *money received*. Board is not to be deducted, if for no other reason than from the impracticability of ascertaining the amount of deduction. One person would pay one amount; another would pay a different amount. Thus, with the same salary in money there would be a different assessment, and that in the face of the law requiring the commissioner to ascertain the *amount of salary in money*.

If the employer board the employee, and pays a salary in money, the salary in money must be assessed, without the addition of board, and this for a similar reason—and because the language of the law limits the assessment to it. See § 51 of ch. 1, Acts 1859–60, p. 32.'

Salary of rail road employee.

Question 28.—An officer or employee of a rail road or other company receives \$500 per annum for his services, payable monthly or quarterly. Is it proper to tax the annual compensation as *income*?

Answer.—It is.

Income of overseers.

Question 29.—An overseer receives in January 1858, \$500 for his wages of 1857. He has the money on hand the 1st of February 1858. Is he to be charged for his salary of 1857 as *income*, and also for the money on hand the 1st of February 1858?

Answer.—In the case supposed, the income will be taxed as such; and then the same, if on hand the 1st of February, will be taxed as surplus. If invested in property, it would clearly be taxable. It is equally so as money.

Officers' fees, how taxed.

Question 30.—Are the fees and commissions of sheriffs, sergeants, constables and other officers liable to be taxed? And herein are the fees and commissions of fiduciaries to be taxed?

Answer.—The fees and commissions of sheriffs and such like officers are taxable. They hold offices for which no license is required.

Executors and other fiduciaries are not within that section. Nor are their commissions such *incomes* as are taxable under the 9th section of that act. If a balance (which might include commissions) were due a fiduciary upon settlement, it is a "credit" which is to be listed for taxation.

Tax on fees of commissioners of the revenue.

Question 31.—Does the law require commissioners of the revenue to pay a tax on his fees and commissions and other compensation as such?

Answer.—The commissioner is to be taxed as sheriffs, clerks and other officers of the state are taxed, upon *all fees* and compensation, from whatever source received.

Commissioner's jurisdiction.

Question 32.—In case of vacancy in the office of commissioner of the revenue for one district in any county, can a commissioner for another district in the same county grant licenses in the district where the vacancy exists?

Answer.—I do not think the authority of a commissioner of the revenue to act in any capacity, extends beyond his district, under any circumstances. And if a license is applied for by a person residing in one commissioner's district, to transact business in another, the license must be granted by such other—the place of business and not the party's residence gives jurisdiction. See § 3, ch. 1, Acts 1859-60, p. 12, defining jurisdiction.

Clerks' fees.

Question 33.—Do the duties of a clerk of a court constitute him an officer, within the meaning of the tax law? If so, are his fees taxable? If taxable, are they to be listed as income, or as part of the certain claims of such clerk, or how otherwise?

Answer.—The tax bill (Sessions Acts 1859-60, ch. 1, § 57, p. 34 and 35) provides that the *income or fees* received during the year ending the first day of February of each year, in consideration of the discharge of any office or employment in the service of the state, or in consideration of the discharge of any office or employment in the service of any corporation, or in the service of any company, firm or person, are to be taxed.

The terms of the law seem to be very broad, and the legislative intent would seem to have been to embrace every class of office and employment, from those under the state, to those under an individual. With this all-embracing intent, is it possible that the clerks of courts have been omitted? I think not. The error is in supposing clerks of courts not to be *state officers*. They are not only officers of the state, but are made such by her constitution; holding offices by a consti-

tutional tenure, unaffected by legislative provisions, except as specifically provided. See Constitution of Virginia, art. 6, § 19, 20, 23 and 32. By ch. 71, Sess. Acts 1852, the mode of election, the commencement "of term of office" of these clerks, the oaths of office, the official bond, payable to the commonwealth, and the power over them given to the courts in which they hold office, are all so plainly prescribed, as to show that the office constituted by the fundamental law was recognized and regulated by the legislature which carried the constitution into effect.

If a clerk then be a state officer, and has *received* income or fees during the year ending the first of February, he is clearly taxable.

It is objected, however, that the rate of taxation should be different for income, and for fees. The law says "*income or fees*," making no difference.

It is asked, is the rate of taxation to be different, where the fees have been paid and where not paid? I think this is clear, and moreover is rational. A man who has received money is better able to pay tax than one to whom it is due, and has not been paid; and the legislature properly apportioned the burden to the ability to pay. It would have been an improper distinction to tax fees due as if paid, and tax bonds due as property, and *not* as if paid. Fees due and unpaid, are put in the same list with bonds due and unpaid.

The practical difficulty in the case is easily met. Fees handed to the sheriff and not paid over to the clerk, are to be regarded as due, but unpaid, and if solvent, are to be listed as part of the certain claims of such clerk. Whatever in the year next before the first day of February the clerk has "*received*" from fees, he is taxable with.

Teachers in boarding schools.

Question 34.—Are fees of teachers keeping boarding schools to be taxed? If so, how?

Answer.—As there is no license required of boarding school teachers, I think their receipts from their calling are taxable as income or fees, under ch. 1, § 57, Acts of 1859-60, p. 34.

Capital employed in business.

Question 35.—What constitutes capital employed in any business? Does it embrace purchases on credit and borrowed capital?

Answer.—As to capital invested, used and employed in any licensed business, see Sess. Acts 1859-60, § 55, ch. 1, p. 34.

All property, whether purchased on credit or not, the subject of the business;

all moneys on hand on the first day of February, not borrowed, but received in the course of business; and such net amount of solvent bonds, &c., deducting the amount owed, and which shall be actively used and employed in the business, constitute the capital of the person licensed, which cannot be otherwise taxed.

Capital employed in an unlicensed business consists of all property, whether purchased on credit or not, the subject of such business; and all money, whether borrowed or not, used, acquired or held in such business, *may* be assessed and taxed as a part of such capital, or not, as the party may choose. In the assessment on *money*, no deduction is authorized for indebtedness. Such deduction is only proper to be made from bonds, securities and liquidated claims.

Ordinary license, &c.

Question 36.—If any person commences any trade or business for which a license is required by law, before he obtains a license, shall he be assessed with "*four*" times the amount which would be required for the time for which the license would extend, or "*four*" times the amount which would be required for a year?

Answer.—In case of a party applying for a license to carry on any trade or business, the commissioner should ascertain *the amount of tax imposed by law from the time of his application*. If the applicant has commenced his trade or business before making application, he must be assessed with *four times such amount*. This applies to all cases of persons required to obtain license for any trade or business, who were not licensed the previous year.

Hotel furniture.

Question 37.—A leases his hotel and *furniture* to B for \$1,200 per annum, payable monthly. Is the furniture exempt from taxation under the license, or who is to be taxed with it?

Answer.—The furniture is exempt. The lessee stands in the shoes of the lessor. The lessor's rent is taxable as a "*credit*;" but the furniture is exempt, because it is an element in the license; but to make it so, it must be assessed, and its annual value included in the license.

Members of assembly.

Question 38.—Is the pay of a member of the general assembly taxable? And if so, is it *income* or *fees*?

Answer.—It is *not fees of office*, but *it is income*. It is received in consideration of the discharge of an office or employment in the service of the state, and must be listed for taxation.

Millers.

Question 39.—P, of the county of M, sells for a miller in the neighborhood two or three hundred dollars' worth of flour per annum. Is he subject to a license tax?

Answer.—Unless P makes a business of selling flour or other merchandise, and does so as a merchant, he is not liable to a license tax. To subject him to a license tax, he must be a merchant dealing in it, as such, as a business, not casually.

Tannery.

Question 40.—The owner of a tannery in Virginia is engaged in manufacturing leather. Has he the right, growing out of his occupation, to import from other states any manufactured leather, and sell it at his tannery without a license?

Answer.—He cannot. No person is authorized to sell, at any place within this state, any goods, wares, merchandise or other articles, without a license, except such as may have been manufactured by the seller in this state.

Question 41.—Can a farmer sell or barter leather manufactured in this state by his neighbor, or receive compensation in any way for his services, without a license?

Answer.—I do not think the farmer in the case supposed is a commission merchant, though as agent for the tanner he exchanges leather for hides upon compensation. The act was aimed at a public mercantile employment, not at a casual and private agency. If construed strictly, we might thus either have hundreds of commission merchants in every county, or forbid all agencies for sale by one man for another.

Residence.

Question 42.—If persons who are residents of a county, casually for several months at intervals during the year, are out of it laboring or for other purposes, are they to be taxed in the county where they usually reside, whether they happen to be there on the first day of February or not?

Answer.—They are to be taxed, in such case, in the county of their usual place of abode.

Question 43.—Where a person resides, on the first day of February, in the county of A, but before the commissioner of the revenue lists him for a capitation tax, he removes into the county of B.; should the commissioner of B assess him in his county?

Answer.—The policy of our revenue system is to require every person to pay taxes some where. And the last clause of the 37th section of ch. 1, p. 30, expressly requires the commissioner to list such persons and property in the county to which they remove.

Bees.

Question 44.—Are bees taxable?

Answer.—It is very questionable, whether the qualified right of property in bees is such as to be subject to taxation. They are *ferae naturae*; and though while in possession, the holder would be protected against a wrong-doer, yet the right is contingent upon their will which the holder cannot be said to control. The exemption of all fowls and animals, except certain classes which are specified, seems to limit taxation to those so specified as not exempted. If a dog, a tame deer and poultry be not taxed, but exempted, is it rational to suppose the law intended bees to be taxed? I think they are not taxable.

Towns.

Question 45.—What is the meaning of the terms "city" and "incorporated town," as relates to taxes on daguerreian and such like artists, auctioneers, shows and other exhibitions, &c. &c.?

Answer.—The 16th section of ch. 54 of the Code provides, that "every town shall be a corporation;" but in the tax law, the word "town" is sometimes used, and at others "incorporated town." Had all towns been intended to be included in the latter phrase, the word "incorporated" would have been omitted. Its use in connection with the word city, indicates that all towns were not to be included.

Where a town is incorporated with a charter by legislative act, it is intended to be included in the terms used. Other towns, not so chartered, are not included.

Agents listing property.

Question 46.—Should property be listed in the county where it is on the first of February; or has an agent the right to list all property of his principal, whether in or out of his county?

Answer.—By the act of 1859-60, ch. 1, § 46, the property of every firm or company shall be listed by the principal accounting officer, partner or agent thereof; and personal property not in the county of the residence of such party, should be listed in the name of the agent of such owner or other person where the property is, unless caused to be otherwise there listed by such owner or other person. In other words, property must be listed either in the name of the owner or other person stated by said section, or of his agent in the county where the principal does not reside, or in such other way as he may prescribe, *but always in the county where the property is.*

Fire arms.

Question 47.—Are rifles, muskets and other fire arms taxable?

Answer.—They are taxable.

Oath.

Question 48.—If the commissioner apply to a tax payer for his list, and the tax payer furnishes the list, but refuses to take the oath required, what is the commissioner to do?

Answer.—The commissioner will present the tax payer the option of furnishing a list himself, or receiving one from the commissioner. If the tax payer does not return the list, the commissioner shall proceed to list the same, and assess the value thereof, on the best information he can obtain. In such cases the commonwealth should have the benefit of all doubts; and such refusal should be noted on the books. The party so refusing may be fined, under the provisions of the 1st section of ch. 43 of the Code. If the list returned is not subscribed and sworn to according to law, it is *not* a list, in contemplation of law, and should be so held by the commissioner.

Oysters.

Question 49.—Is a peddler of oysters liable to be assessed with a license tax?

Answer.—The law in its enacting provisions does not any where seem to contemplate oysters as within the tax law. As they are "provisions" grown or produced in the United States, they are excepted, if the sale is by the producer or person growing such provisions; but all peddling of every kind and character is prohibited.

Sales of personal property.

Question 50.—A resident of the county of M, prior to the 1st of February, sold a lot of cattle to a resident of the county of G, but by the terms of the contract the cattle were not to be delivered till after the 1st day of February. Are the cattle to be listed for taxation in the county of M or G? And whether the vendor even, were the cattle sold on credit, and were delivered before the 1st of February, but a bond for the payment of the purchase money was not given till after that time, is the debt to be taxed?

Answer.—Possession is the *indicum* of title to personalty. The commissioner must so hold it to be.

If A sells to B in the same county, the question of sale may be determined between them before the commissioner of the same county, *if they agree*. If

they disagree, let him assess the party in possession on the 1st of February, and leave the contest to the contracting parties. Non-delivery of possession, *prima facie*, is evidence of non-sale.

But where A in the county of M sells to B in the county of G, the commissioner from necessity must hold possession as the conclusive test of title. For as commissioner in M, he cannot assess B in the county of G; and if he proceed on any other test, he may, by failing to assess in M, enable B in G to evade the tax, by denying title, when the commissioner in G would not have his possession to confront with such denial. Possession is title for the commissioner in his assessment, unless by *agreement between the parties* he may make another rule consist with the right of the state.

The taking a bond before or after the 1st of February has nothing really to do with it, except as evidence of sale. It can avail nothing with the commissioner against *possession as the test of title*.

If a sale and delivery of possession be made before the 1st of February, and a bond for the purchase money be not given till after that time, the vendor is not released from the payment of taxes on the purchase money, as a "*credit*."

Exhibitions, shows, &c.

Question 51.—What license tax is to be charged for the exhibition of a circus or menagerie, and such side shows as usually accompany them?

Answer.—It is quite certain that the performance of a circus and the exhibition of a menagerie are separate and distinct things, as the language of the assessment and tax acts imply.

If the exhibition be within a corporate town, or within five miles thereof, the tax is as follows:

For the exhibition of a menagerie, <i>for each time</i> ,	-	-	\$ 40 00
For the performance of a circus, <i>each time</i> ,	-	-	40 00
For every side show, <i>each time</i> ,	-	-	10 00
If not within five miles of a corporate town, half the above rates.			

Distilleries.

Question 52.—Where a distillery is kept in operation less than four months in any year for distilling grain or fruit produced by the proprietor, and is not thereby subject to a license tax, is it taxable as property?

Answer.—Unless a distillery so employed is kept in operation four months in the year, no license is required of the proprietor, and it should be taxed as property.

Question 53.—Suppose a distillery is kept in operation by the proprietor three months and twenty-five days, and then leased by him to his neighbor, who keeps it in operation three months and twenty-five days more, does the law require a license in this case?

Answer.—The case supposed is a clear evasion of the law. The two periods should be united, and the tax assessed accordingly.

Daguerreian artists.

Question 54.—Are daguerreian and such like artists to be taxed in each county in which they operate?

Answer.—They are.

Pianos in boarding schools.

Question 55.—Is it proper to tax pianos and other musical instruments in incorporated boarding schools?

Answer.—They are clearly exempt.

Sailing vessels.

Question 56.—Should pleasure sailing boats, boats for catching oysters, boats for delivering grain from farms to vessels on the river, and steam portable saw mills, be listed and taxed?

Answer.—Commissioners of the revenue, in construing the various acts, should keep in mind the provisions of the new constitution, that "taxation shall be equal and uniform throughout the commonwealth, and all property, other than slaves, shall be taxed in proportion to its value." From this quotation it will be perceived that all property must be taxed, except it be exempt by legislative authority. The vessels, &c. above named not being exempt, are necessarily a subject of taxation.

Exemption of slaves.

Question 57.—Can a county or corporation court exempt a slave for any cause, from taxation?

Answer.—The 23d section of article 4 of the constitution of Virginia provides, that "every slave who has attained the age of twelve years, shall be assessed with a tax equal to and not exceeding that assessed on land of the value of three hundred dollars. Slaves under that age shall not be subject to taxation; and other taxable property may be exempted from taxation by the vote of a majority of the whole number of members elected to each house of the general assembly."

So it will be perceived that the general assembly has no power to exempt slaves from taxation; and as the county courts derive all their authority from the general assembly, it follows, that as the legislature could only delegate such power as it possessed, the county courts have no power to exempt. All slaves over 12 years of age, whatever may be their condition, must be listed for taxation.

Listing minors.

Question 58.—The *property* of a minor is to be listed in the mode prescribed; but suppose the minor does not reside with his father, mother or guardian, how is he to be entered for county levy, and to whom should such levy be charged?

Answer.—The county levy shall be on all free males over 16 years of age. It shall be charged to his father or guardian, if he has either. If not, it may be charged to the minor. The guardian will not be responsible further than the estate in his hands.

Licenses on stallions.

Question 59.—A stallion is let to mares by the season at \$10, and an additional sum is added as groom fees. Is the additional sum a part of the season price, for purposes of taxation?

Answer.—I do not think the groom fees are to be added.

The charge is an incident, and no part of the profit to the owner. As it would be in most cases the same, the result would be, if it were included, that the tax would be disproportionably increased upon those whose season fee was less.

Auctioneers.

Question 60.—Does a license to an auctioneer authorize the person licensed to sell at more than one place? Is the auctioneer authorized to employ one or more criers at his sales? And is he authorized to have more than one salesman at the same time and place?

Answer.—All licenses to “sell,” whether by merchant, auctioneer or other person, must be at some particular place named in the license; and a sale at any place other than that, is to be deemed a sale without license. An exception is, however, made in favor of an auctioneer, to the effect that he may sell, at any place in the county or corporation where his license was granted, the goods and chattels of another, where such other would be authorized to sell such goods and chattels. He may sell the goods of a licensed merchant, where the merchant might sell. He may sell the household furniture, where the owner thereof might sell, and so on: provided he does not go out of the county or corporation where the license was issued.

All sales made by such auctioneer, whether they be sales exempted if made by a personal representative, trustee, or by order of court, &c. are to be included, if made by an auctioneer, in his taxable sales.

The auctioneer may employ a crier, or more than one, to act at the same time and place. The rule in respect to the employment of criers, would be the same as that which governs merchants in the employment of clerks.

Small notes.

Question 61.—Can a license be granted without the applicant's taking an oath not to pass small notes?

Answer.—The oath must be taken. It is the plain requirement of the law, and no license can be granted without it.

In conclusion, permit me to remind you that the *ad valorem* principle of taxation is a fundamental part of our system, and that you cannot make taxation just and equal unless you institute rigid rules by which you ascertain the quantity and value of the property in the state, and for every omission, you incur heavy penalties.

To accomplish this purpose, you are armed with ample power. In the exercise of your authority, you should never neglect to exact a list of every tax payer's property *on oath*. It is one of the requirements of law, and no delicacy should prevent you from enforcing its provisions. A contrary practice, if permitted to prevail, must always work injustice, and in a measure destroy the principle upon which our system of taxation is based.

Next in importance to the faithful administration of your office in other respects, and scarcely secondary to it, is punctuality. It secures the compensation for your services without *condition*, and relieves the treasury from want. Without it you forfeit, by mere operation of law, your entire compensation for the services which you may have performed, to be relieved only upon equitable principles.

Your compensation is forfeited for the failure to deliver a copy of each of your books to the clerk of the county or corporation court *before* the first day of June for examination.

It is forfeited for the failure to deliver a copy of each book, examined and certified by the clerk, to the sheriff or collector *before* the 15th day of June; and it is forfeited for the failure to transmit another copy of each book to the auditor *before* the first day of August.

It is also forfeited, unless you have punctually performed your duty in reference

to the assessment of property and licenses, and "*made all the reports required within the time prescribed by law.*"

The reports required are :

1st. A report of all licenses to be returned to the auditor on or before the 10th of May, and also another list immediately after the first day of September.

2d. A report of the births, marriages and deaths, to be returned to the clerk of the county or corporation court on or before the 1st day of June ; and

3d. A report of all violations of the revenue laws.

It will at all times afford me great pleasure to give you any information which I possess, in order to enable you to discharge with greater facility the duties of your office.

I am, very respectfully,

Your most obedient servant,

J. M. BENNETT,

Aud. of Pub. Acc'ts.

A P P E N D I X .

As irregularities have heretofore operated to postpone, and in some instances to defeat an exoneration and an order to refund taxes erroneously assessed, I have here appended a form, which may serve to draw attention to those matters of substance which are essential to give validity to the order of court.

The form can be made to suit any book, whether of land or personal property.

The facts upon which the court acts must be certified, or else the order will have no validity. See ch. 1, p. 54, 55.

FORM.

VIRGINIA: At a county court held for the county of _____ at the court-house thereof, on the _____ day of _____ in the year 186 _____ :

This day came A B, who alleges that he is aggrieved by an entry in the land book made by C D, commissioner of the revenue for said county in the year 186 _____, whereby he is charged with \$ _____ taxes for the year 186 _____, on a tract of land containing _____ acres, described as lying on _____; and thereupon the said A B moved the court to exonerate him from the payment of \$ _____ (part or all) of the taxes so erroneously charged against him for said year; which motion was defended by E F, the attorney for the commonwealth for said county.

And it appearing that said book, in which said alleged erroneous entry has been made, was certified by the clerk of the county court of this county on the _____ day of _____ 186 _____, and that application for redress against the erroneous entry was made on this day for the first time; and it appearing that

[Here state all the facts proved.]

All which the court certifies as facts proved upon the application aforesaid: On consideration whereof, and from such facts so proved, the court is satisfied that the said A B is erroneously charged on said book with taxes amounting to \$ _____; whereupon it is ordered that the said A B be exonerated from the payment of \$ _____ taxes so erroneously charged, if not already paid, and if paid, that it be refunded to him.

ALLOWANCE TO COMMONWEALTH'S WITNESSES, HOW PAID.

A witness is entitled to fifty cents for each day's attendance, and four cents per mile for each mile necessarily traveled beyond ten to the place of attendance, and the same returning, besides the tolls at bridges, ferries and turnpike gates. See § 35 of ch. 176 of the Code of Virginia.

On the witness' oath an entry of the sum to which he is entitled is to be made when the attendance is before a court, by the clerk of such court. If the attendance is before a justice of the peace, by such justice. See § 36 of ch. 176 of Code of Virginia. See also § 4, 5 and 6, ch. 210 of Code of Virginia.

FORM IN CASE OF FELONY.

VIRGINIA—*Augusta County, to wit:*

I, A B, clerk of the county court of Augusta county, certify that John Smith attended as a witness upon a *summons* before the county court of said county, four days at the March term thereof, in the year one thousand eight hundred and sixty, in behalf of the commonwealth in her prosecution against R. S. Roberts, on a charge of felony; that said witness also traveled forty miles in coming to the place of trial and the same in returning therefrom—from which distance so traveled I have deducted ten miles each way, leaving the distance traveled for which compensation is to be made at sixty miles. He also paid tolls amounting to one dollar—for all of which he is entitled to five dollars and forty cents, payable out of the public treasury.

On the oath of the said John Smith taken before me, and which I here certify, an entry of the said sum to which he is entitled, and for what, has been made by me in my office.

Given under my hand, &c.

FORM IN CASES OF MISDEMEANOR.

Before a witness can be paid out of the treasury, it must appear from the certificate of allowance that the defendant was acquitted, and that there was no prosecutor; or that such defendant was convicted, and by reason of his insolvency the sum to which the witness is entitled cannot be obtained. See § 6, ch. 210 of the Code.

All offences punishable with death or confinement in the penitentiary are felonies. All other offences are misdemeanors. See § 1 of ch. 199 of the Code.

The amounts to which witnesses are entitled are to be expressed in letters and not in figures. No person authorized to make the entry or give a certificate is authorized to purchase the same.

Within sixty days after the adjournment of each court, the clerk is to certify to the auditor a list of all entries made on behalf of witnesses who attended for the commonwealth. See § 1, ch. 50, Acts 1857-8, page 47.

DUPLICATES.

No duplicate certificate of any allowance of a court to be paid out of the treasury shall be made, unless under order of court. For issuing such certificate the clerk forfeits one hundred dollars. See § 21, ch. 163 of the Code of Virginia.

FORM OF LICENSE TO MERCHANT.

The sheriff of the county of _____ will receive of John Smith one hundred dollars, assessed by me as commissioner of the revenue for the county aforesaid, for the privilege of selling at _____, in the said county, goods, wares and merchandise, from the _____ day of _____ 186 _____ until the 30th day of April 186 _____.

Given under my hand, this _____ day of _____ 186 _____.

J— P—,

Com'r of Revenue for _____ Co.

RECEIPT ON BACK OF LICENSE TO MERCHANT.

Received of John Smith one hundred dollars, the tax assessed within by the commissioner of the revenue of the county of .

Given under my hand, this day of 186 .

Sheriff of Co.

NOTE.—Forms for other licenses can be made to suit each particular case, according to the requirements of law.

REPORTS AND COPIES TO BE TRANSMITTED BY CLERKS OF COURTS TO THE AUDITOR OF PUBLIC ACCOUNTS.

Clerks' Bonds.

1. By the 10th section of ch. 163 of the Code, each clerk shall, within two months after the execution of his bond as such clerk, transmit a copy thereof to the auditor of public accounts. For a failure the clerk forfeits not less than one hundred dollars nor more than five hundred dollars.

Sheriffs' Bonds.

2. The 9th section of ch. 49 of the Code requires the clerk of the court by which any bond is taken of a sheriff or sergeant, to transmit a copy thereof to the auditor of public accounts, within sixty days after it is taken by such court.

Bonds of Notaries Public.

3. Section 1 of chapter 120 of the Code requires the clerk of the court in which the bond of a notary public is taken, to transmit a copy thereof to the auditor of public accounts, within sixty days after it is taken by such court.

Bonds of Commissioners of the Revenue.

4. Section 6 of chapter 35 of the Code of Virginia requires the clerk of the court in which the bond of the commissioner of the revenue is taken, to transmit a copy thereof to the auditor of public accounts, within sixty days after it is taken by such court. For a failure the clerk forfeits not more than one hundred dollars.

Taxes on Law Process, &c.

5. By § 19 and 20 of ch. 39 of the Code, each clerk shall make out an account of all taxes received by him on or after the first day of September in one year, and before the first day of September in the next year. He shall swear to the correctness of said account, which shall be rendered to the auditor of public accounts, and the amount appearing due thereby paid into the treasury on or before the fifteenth day of December following, deducting thereout a commission of five per centum for receiving and paying the same.

By § 21 of same chapter, any clerk failing to render such account on or before the fifteenth day of December, shall forfeit six hundred dollars.

List of Fines.

6. If any clerk shall fail to transmit to the auditor of public accounts a list of fines within the time and in the manner prescribed by the 15th, 16th and 17th sections of chapter 43 of the Code of Virginia, or in case there be nothing of which he can make a return, if he shall fail to certify the fact to the auditor of public accounts, such clerk, for every such failure (unless he show good cause therefor), shall forfeit one hundred dollars. See § 19 of ch. 43 of the Code.

Certificates of Allowance to Jurors.

7. The 35th section of chapter 27 of Act of 1852-53 requires each clerk, as soon as practicable after the adjournment of the court, to transmit to the auditor of public accounts certified copies of all allowances to jurors payable out of the treasury, and also to deliver to each juror a certified copy of any such order making an allowance to him, payable by the commonwealth, and a like copy of any such order making an allowance to him, payable by the county or corporation.

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